

# ARKANSAS CODE OF 1987 ANNOTATED



## 2011 SUPPLEMENT VOLUME 4B

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# **TITLE 6**

## **EDUCATION**

(CHAPTERS 1-17 IN VOLUME 4A; CHAPTERS 50-85 IN VOLUME 5)

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## SECTION.

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**6-18-101. Qualifications for valedictorian and salutatorian.**

(a)(1) Only a student who has successfully completed a minimum core of high school courses shall be eligible for the honor of serving as a valedictorian or salutatorian of his or her graduating class.

(2) Only a student who has successfully completed the minimum core of high school courses with a minimum grade point established by the school district or its equivalent shall be eligible for distinction as an honor graduate of a senior class in a high school in this state.

(b) For the purpose of meeting the requirements of subsection (a) of this section, the student must complete the minimum core of courses recommended by the Arkansas Higher Education Coordinating Board and the State Board of Education pursuant to § 6-61-217 enlisted during the period of his or her enrollment in high school.

(c) Only a student who is enrolled in a course of study containing the minimum core of high school courses recommended by the coordinating board and the state board pursuant to § 6-61-217 shall be eligible for membership in the National Honor Society or any equivalent academic honor society.

(d)(1) A school district may establish an honor roll system to recognize or reward students for academic achievement.

(2) A school district shall not be prohibited from identifying students who qualify for the honor roll or who are eligible to serve as valedictorian or salutatorian of the students' graduating class or who qualify for honor graduate status under this section.

(3)(A) A parent or student who does not want to have the student identified as an honor student or listed on the honor roll shall submit a written request to the principal of the school requesting that the student not be identified.

(B) The school and school district shall not identify any student who has submitted or whose parent has submitted a written request under subdivision (d)(3)(A) of this section.

**History.** Acts 1991, No. 980, §§ 1, 2; 1993, No. 1117, § 1; 1997, No. 977, § 2; 2005, No. 390, § 1; 2009, No. 376, § 34.

**Amendments.** The 2009 amendment deleted former (d) and redesignated the

remaining subsection accordingly; in (d)(3)(B), inserted "or whose parent has submitted" and substituted "(d)(3)(A)" for "(c)(3)(A)"; and made minor stylistic changes.



## 6-18-102. Legislative findings — School uniform policy.

### CASE NOTES

#### Constitutionality.

School board members had qualified immunity as to claims asserted against them in their individual capacities in a 42 U.S.C.S. § 1983 suit. They did not violate students' clearly established U.S. Const. Amendments I and XIV rights when they adopted a school uniform policy pursuant to this section, and there was not evidence that the members directly participated in the enforcement of that policy or of a literature review policy by two school administrators. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

Two school administrators did not have qualified immunity as to claims asserted against them in their individual capacities in a 42 U.S.C.S. § 1983 suit filed by several students because although the students' U.S. Const. Amendments I and XIV rights where not violated by the adoption of a school uniform policy pursuant to this section, it was not clear that the administrators had not knowingly violated their clearly established constitutional rights when enforcing that policy and a literature review policy. It appeared that the administrators improperly punished the

students for the content of their speech because the students were disciplined for wearing black armbands and distributing literature to protest the school uniform policy, which conduct did not appear to violate any school policy. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

Eastern District of Arkansas, Pine Bluff Division, district court believes that the Eighth Circuit appeals court would take the same approach as its sister Fifth and Sixth Circuit courts when evaluating the facial constitutionality of a school uniform policy adopted pursuant to subsection (a) of this section and that it would conclude that such a policy does not violate students' clearly established U.S. Const. Amendments I and XIV rights, as long as the policy is unrelated to the suppression of expression and does not burden substantially more speech than is necessary. The legislative findings set out in subsection (a) of this section establish the important or substantial government interests reflected in dress code and school uniform policies adopted pursuant to the statute. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

## 6-18-104. Placement.

All students in grades kindergarten through twelve (K-12) of the public schools of this state shall be placed in an educational program that includes the minimum core curriculum established under § 6-61-217 unless a medical doctor and the parent or custodian of the student certify that a medical condition exists that impairs the student's cognitive functioning and that the student should not pursue the minimum core curriculum.

**History.** Acts 1997, No. 1195, § 1; 2009, No. 376, § 35.

**Amendments.** The 2009 amendment deleted (b).

## 6-18-106. Classroom assignment of multiple birth siblings.

(a) As used in this section:

(1) "Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth; and

(2) "Parent" means the parent, legal guardian, or other person having custody or charge of a student enrolled in a public school.

(b) Not later than the fourteenth day before the first day of school, a parent of multiple birth siblings who are assigned to the same grade level and school, in prekindergarten through grade six (PreK-6), may request in writing that the school place the siblings in the same classroom or in separate classrooms.

(c) Except as provided by subsection (e) or (g) of this section, a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) In the event that one (1) parent's election under subsection (c) of this section differs from another parent's election under subsection (c) of this section, the school shall determine the appropriate placement of the multiple birth siblings.

(e) The school may direct a classroom placement for the multiple birth siblings that differs from the parent's request if:

(1) Thirty (30) instructional days have lapsed since the date the multiple birth siblings began the classroom placement made at the parent's request; and

(2) After consulting with the teacher of each classroom in which the multiple birth siblings are placed, the school determines that the classroom placement requested by the parent is:

(A) Detrimental to the educational achievement of one (1) or more of the multiple birth siblings;

(B) Disruptive to the classroom learning environment where the multiple birth sibling is assigned; or

(C) Disruptive to the school's educational or disciplinary environment.

(f) A parent may appeal the school's classroom placement of multiple birth siblings in the manner provided by school district policy.

(g) A school district is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(h) A school district shall adopt a written policy concerning the procedures for classroom placements of multiple birth siblings that is consistent with this section.

(i) This section does not affect a right or obligation of the school or school district regarding student placement decisions of the school district under:

(1) The Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(2) The Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq., as it exists on July 27, 2011; or

(3) Written school district disciplinary policies.

**History.** Acts 2011, No. 906, § 1.

## SUBCHAPTER 2 — ATTENDANCE

### SECTION.

6-18-201. Compulsory attendance — Ex-ceptions.

### SECTION.

6-18-202. Age and residence for attending public schools.

## SECTION.

- 6-18-203. Attendance in district other than district of residence.
- 6-18-207. Minimum age for enrollment in public school.
- 6-18-209. Adoption of student attendance policies — Effect of excessive absences.
- 6-18-220. Additional absences granted for participation in FFA,

## SECTION.

- FHA, and 4-H programs — Equal treatment.
- 6-18-222. Penalty for excessive absences — Revocation of driving privilege.
- 6-18-227. Arkansas Opportunity Public School Choice Act of 2004.
- 6-18-230. Minimum age for enrolling in prekindergarten.

**Effective Dates.** Acts 2009, No. 29, § 2: Feb. 4, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that families in Arkansas are suffering an undue hardship created by the establishment of new kindergarten enrollment criteria; that some children currently enrolled in prekindergarten programs are not eligible to enroll in kindergarten due to newly implemented criteria; that the immediate implementation of this act is necessary for public school districts and families of these children to prepare for the enrollment of these students in kindergarten for the 2009-2010 school year; that the failure to allow these children to enroll in kindergarten will cause irreparable harm to the education of these children and the well-being of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 426, § 3: Mar. 13, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that families in Arkansas are suffering an undue hardship created by the establishment of new kindergarten enrollment criteria; that some children currently enrolled in prekindergarten programs are not eligible to enroll in kindergarten due to newly implemented criteria; that the immediate implementation of this act is necessary for public school districts and families of these children to prepare for enrollment of students in prekindergarten and kindergarten programs during the 2009-2010 school year and beyond; and that this act is immediately necessary because failure to allow consistent enrollment age criteria will cause irreparable harm to the education of these children and the well-being of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

### 6-18-201. Compulsory attendance — Exceptions.

(a) Under the penalty for noncompliance set by law, every parent, guardian, or other person residing within the State of Arkansas having custody or charge of a child five (5) years of age through seventeen (17) years of age on or before the date established in § 6-18-207 for the minimum age for enrollment in public school shall enroll and send the



child to a public, private, or parochial school or provide a home school for the child, as described in § 6-15-501 et seq., with the following exceptions:

(1)(A) A parent, guardian, or other person residing within the state and having custody or charge of a child may elect for the child not to attend kindergarten if the child will not be six (6) years of age on the date established in § 6-18-207 for the minimum age for enrollment in public school of that school year.

(B)(i) If an election is made, the parent, guardian, or other person having custody or charge of the child shall file a signed kindergarten waiver form with the local school district administrative office.

(ii) The kindergarten waiver form shall be prescribed by rule of the Department of Education.

(C) Upon the filing of the kindergarten waiver form, the child shall not be required to attend kindergarten in that school year;

(2) Any child who has received a high school diploma or its equivalent as determined by the State Board of Education is not subject to the attendance requirement;

(3) Any child sixteen (16) years of age or older who is enrolled in a postsecondary vocational-technical institution, a community college, or a two-year or four-year institution of higher education is not subject to the attendance requirement; and

(4)(A) Any child sixteen (16) years of age or older who is enrolled in an adult education program under subsection (b) of this section or in the Arkansas National Guard Youth Challenge Program is not subject to the attendance requirement.

(B) The requirements in subsection (b) of this section do not apply to the Arkansas National Guard Youth Challenge Program.

(b) A local school district may grant a waiver of the attendance requirement to any student age sixteen (16) or seventeen (17) to enroll in an adult education program only after all of the following requirements have been met:

(1) The student makes formal application to the school district for a waiver to enroll in an adult education program;

(2)(A) After formal application and prior to any further action on the application, the student shall be administered either a test for adult basic education or a General Educational Development Practice Test under standardized testing conditions by a public school official designated by the school and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(B) Provided, however, that the minimum test scores shall not be required of any student who is subject to the attendance requirement of this section but who was not enrolled in any school district during the previous school year;



(3) The student and the student's parents, guardians, or persons in loco parentis meet with the school counselor to discuss academic options open to the student;

(4) The school district determines that the student is a proper candidate for enrollment in adult education, contingent upon approval by the appropriate adult education program;

(5) The adult education program reviews the student's school and testing records and agrees to admit the student into the adult education program;

(6) The adult education program shall report attendance of all sixteen-year-old and seventeen-year-old enrollees to the sending school district on at least a monthly basis;

(7)(A) The adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) Provided, however, that a minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(8) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(9) In the event that a more appropriate assessment test or testing and assessment mechanism shall be developed to determine a reasonable level of competency for success at the adult education level, that test or mechanism shall be substituted, with the approval of the Adult Education Section of the Department of Career Education, for the tests required in subdivision (b)(2) of this section;

(10) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in a public school within five (5) days from the date the student is released from the adult education program; and

(11) The requirements in this subsection shall not apply to students enrolled in a private, parochial, or home school in the state.

(c) Students age sixteen (16) or seventeen (17) enrolled in a private, parochial, or home school who desire to enroll in an adult education program shall meet the following requirements:

(1)(A) Students shall apply for enrollment to the adult education program.

(B) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(C) A student that is home schooled shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503;

(2) The student and the student's parents, guardians, or persons in loco parentis shall meet with the appropriate staff of the adult education program to discuss academic options open to the student;

(3) The adult education program administrators shall review the student's school and testing records prior to allowing admission to an adult education program;

(4)(A) Except as provided in subdivision (c)(4)(B) of this section, the adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) A minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(5) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(6) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in either a public, private, parochial, or home school within five (5) days from the date that the student is released from the adult education program; and

(7) If a home school student is accepted into the adult education program, the student's parent, guardian, or person standing in loco parentis shall send written notification to the local public school superintendent of his or her intent to participate in the adult education program.

(d) Students age sixteen (16) or above enrolled in a private, parochial, or home school who desire to take the General Educational Development Test shall meet the following requirements:

(1) A student shall not be required to obtain permission or approval from any official in a public school district before being allowed to take the test;

(2) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment;

(3) A student enrolled in a home school shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503; and

(4) A student enrolled in a private, parochial, or home school must achieve at least the minimum official General Educational Development Practice Test scores.

(e)(1) Nothing in this section shall prohibit a public school district from continuing with an adult education program to provide educational services to sixteen-year-olds and seventeen-year-olds enrolled in



public school if a contract is negotiated between the district and the adult education program that includes:

(A) Financial considerations for serving the students enrolled in the public school districts; and

(B) Accountability measures to ensure monitoring of student progress and attendance.

(2) Any contract for services by an adult education program for sixteen-year-olds and seventeen-year-olds shall be submitted to the Department of Career Education for final approval.

(3) Any student served by an adult education program under a contractual arrangement as described in this subsection shall not be counted in any enrollment numbers reported by the adult education programs for state or federal funding.

(f) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be evaluated by the district and may be placed in the first grade if the results of the evaluation justify placement in this first grade and the child's parent agrees with placement in the first grade. Otherwise, the child shall be placed in kindergarten.

**History.** Acts 1983 (Ex. Sess.), No. 60, § 3; 1985, No. 1029, § 2; 1985 (1st Ex. Sess.), No. 40, § 1; 1985 (1st Ex. Sess.), No. 42, § 1; A.S.A. 1947, §§ 80-1503, 80-1503.4; Acts 1987, No. 319, § 1; 1989, No. 598, § 1; 1991, No. 320, § 1; 1994 (2nd Ex. Sess.), No. 30, § 1; 1994 (2nd Ex. Sess.), No. 31, § 1; 1995, No. 837, §§ 1, 2; 1997, No. 1148, § 1; 1997, No. 1230, § 1; 1999, No. 570, § 1; 2001, No. 1514, § 1; 2001, No. 1535, § 1; 2001, No. 1659, § 1; 2003, No. 604, §§ 1-3; 2009, No. 215, § 1; 2009, No. 376, § 36.

**Amendments.** The 2009 amendment

by No. 215 substituted "the date established in § 6-18-207 for the minimum age for enrollment in public school" for "September 15 of that year" in the introductory language of (a); substituted "the date established in § 6-18-207 for the minimum age for enrollment in public school" for "September 15 of that particular school year" in (a)(1)(A); substituted "rule" for "regulation" in (a)(1)(B)(ii); and made minor stylistic changes.

The 2009 amendment by No. 376 deleted (a)(5).

## **6-18-202. Age and residence for attending public schools.**

(a) As used in this section:

(1) "Reside" means to be physically present and to maintain a permanent place of abode for an average of no less than four (4) calendar days and nights per week for a primary purpose other than school attendance;

(2) "Resident" means a student whose parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside in the school district; and

(3) "Residential address" means the physical location where the student's parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside.

(b)(1) The public schools of any school district in this state shall be open and free through completion of the secondary program to all persons in this state between the ages of five (5) and twenty-one (21) years whose parents, legal guardians, or other persons having lawful control of the person under an order of a court reside within the school district and to all persons between those ages who have been legally transferred to the district for education purposes.

(2) For purposes of this section, a student may use the residential address of a legal guardian, person having legal, lawful control of the student under order of a court, or person standing in loco parentis only if the student resides at the same residential address and if the guardianship or other legal authority is not granted solely for educational needs or school attendance purposes.

(3) Any school district may require a parent, legal guardian, or other person in loco parentis who enrolls a student in a school district to sign a statement under oath attesting to his or her residential address or to provide other proof that a student is a resident of the school district as defined by this section.

(c) Any person eighteen (18) years of age or older may establish a residence separate and apart from his or her parents or guardians for school attendance purposes.

(d) In order for a person under eighteen (18) years of age to establish a residence for the purpose of attending the public schools separate and apart from his or her parents, guardians, or other persons having lawful control of him or her under an order of a court, the person must actually reside in the district for a primary purpose other than that of school attendance.

(e)(1) A school district shall not admit for ten (10) school days or more a student who is not a resident of the school district or is not otherwise entitled by law to attend the school district.

(2)(A) A school district that determines that a student who resides within its boundaries is unlawfully attending another school district shall send written notification to the superintendent of the other school district that the student is unlawfully attending the school district.

(B) The written notification to the superintendent shall include a reasonable description of the location of the residence, including a street address if available, and other information that enables the school district to determine that the student is a resident of the school district.

(3)(A) The school district that receives the notification under subdivision (e)(2) of this section shall immediately investigate and determine which school district the student is required to attend.

(B) The school district conducting the investigation shall:

(i)(a) Complete the investigation within ten (10) business days after receiving the written notice.

(b) The school district conducting the investigation may extend the investigation ten (10) business days in a case that involves five (5) or



more students by submitting written notice within the first ten (10) business days of the investigation to the school district that submitted the notification under subdivision (e)(2) of this section;

(ii) Make a determination as to which school district the student is required to attend; and

(iii) Send a written report to the school district that submitted the notification, in writing, of the findings of the investigation and the documentation supporting its determination.

(4) A student who is determined to be unlawfully attending a school not within the student's resident district shall be immediately barred from attending the nonresident school district.

(5)(A) The school district that submitted the notification may within five (5) days after receiving the written report, appeal the decision of the school district that conducted the investigation.

(B) The appeal shall be made to the Department of Education.

(C) The school district that conducted the investigation shall have the burden of proof in proving that the student is entitled to attend its school.

(6)(A) The department shall promulgate rules to establish the procedure for a department hearing officer to investigate the appeal and conduct a hearing.

(B) The department hearing officer may compel disclosure of information from both of the school districts in his or her duties.

(C)(i) The decision of the department hearing officer may be appealed by either school district to the circuit court of the county where the school district that is appealing the decision is located.

(ii) The circuit court shall affirm the decision of the department hearing officer if it is supported by substantial evidence.

(f) Any person who knowingly gives a false residential address for purposes of public school enrollment is guilty of a violation and subject to a fine not to exceed one thousand dollars (\$1,000).

(g) This section shall not be construed to restrict a student's ability to participate in a tuition agreement with a nonresident school district or to officially transfer to another school district pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206.

**History.** Acts 1987, No. 466, § 1; 1987, No. 591, § 1; 1989, No. 895, § 1; 1999, No. 391, § 9; 1999, No. 663, § 1; 2005, No. 1994, § 64; 2005, No. 2121, § 6; 2009, No. 1310, §§ 1, 2.

**Amendments.** The 2009 amendment rewrote (e); and, in (f), substituted "one thousand dollars (\$1,000)" for "five hundred dollars (\$500)" and made a minor stylistic change.

### **6-18-203. Attendance in district other than district of residence.**

(a)(1) Except as provided in subdivision (a)(2) of this section, when any person owns a tract of land on which the person resides and which tract of land is located partially in one (1) school district and partially in another, the school-age children of that person shall attend school in the school district where the residence is located.

(2) When a person owned an undivided tract of land on which that person domiciled for ten (10) or more years prior to August 13, 2001, and which undivided tract of land is located partially in one (1) school district and partially in another, the school-age children of that person, and those of his or her successors in title, shall be eligible to attend the school in either of the districts regardless of the location of the home on the property.

(b)(1) A child or ward of a person who before April 1, 2009, is at least a half-time employee of a public school district in this state or is a full-time employee of an education service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is at least a half-time employee of that public school district; or

(C) Any school district located in the county where the main office of the education service cooperative is located.

(2) A child or ward of a person who on or after April 1, 2009, is a full-time employee of a public school district or an educational service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is a full-time employee of that public school district; or

(C) Any school district located in the county where the main office of the educational service cooperative is located.

(3)(A) A student enrolled in kindergarten through grade eight (K-8) under subdivision (b)(1) or (b)(2) of this section shall be entitled to continue attending school in the enrolled school district, regardless of a change to the employment status of the parent or guardian, until the end of the school year if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of one hundred twenty (120) days before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student is no longer employed by the school district or education service cooperative.

(B) A student enrolled in grade nine through twelve (9-12) under subdivision (b)(1) or (b)(2) of this section shall be entitled to continue attending school in the enrolled school district, regardless of change to the employment status of the parent or guardian, through the completion of the secondary program, if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of three (3) consecutive contract years, with a minimum of one hundred twenty (120) contract days each year, before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student



is no longer employed by the school district or education service cooperative.

(4) A nonenrolled sibling of a student who attends a nonresident school district under this subsection shall have no right to future enrollment based on the privilege of enrollment extended to his or her sibling if the parent or guardian is no longer a full-time employee of the school district or education service cooperative.

(5)(A) The General Assembly recognizes and embraces the responsibility of the state to promote desegregation of its schools and finds that this enactment affects such a limited class of students that desegregation will not be impeded. If, however, unforeseen circumstances result in a finding by a court that a school district is unlawfully segregated in whole or in part as a result of these provisions, the provisions in this subsection shall not apply to the children or wards of teachers in that district.

(B) Therefore, the provisions in this subsection shall not apply to the children or wards of those teachers who reside in school districts that may hereafter be found by a court to be unlawfully segregated if the finding is based upon segregation that was caused in whole or in part by the effects of these provisions.

(c) When any employee of the Department of Correction lives on department property or will live on department property as the result of a transfer from a unit of the department to another unit, the children or wards of the employee may complete their education in the school district in which they are enrolled at the time the parent or guardian is transferred.

(d) Any child and that child's sibling or siblings currently attending a nonresident school under subsection (a) of this section shall be allowed to complete all remaining school years at the nonresident district or may attend the resident district if he or she so chooses.

**History.** Acts 1983, No. 822, § 1; A.S.A. 1947, § 80-1568; Acts 1987, No. 624, § 1; 1991, No. 915, § 1; 1993, No. 1105, § 1; 1995, No. 726, § 1; 1997, No. 1304, § 1; 1999, No. 947, § 1; 2001, No. 1207, § 1; 2003, No. 144, § 1; 2007, No. 379, § 1; 2007, No. 617, § 12; 2009, No. 1368, § 1; 2011, No. 981, § 7.

**Amendments.** The 2007 amendment by No. 617 substituted "education service cooperative" for "educational cooperative" twice in (b)(1).

The 2009 amendment rewrote (b).

The 2011 amendment substituted "that public school district" for "a public school" in (b)(1)(B); substituted "is a full-time employee of a public school district" for "is at least a full-time employee of a public school in one (1) school district" in the introductory paragraph of (b)(2); and substituted "that public school district" for "the public school" in (b)(2)(B).

## **6-18-207. Minimum age for enrollment in public school.**

(a)(1)(A) For the 2009-2010 school year, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before September 1, 2009.

(B) For the 2010-2011 school year, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before August 15, 2010.

(C) For the 2011-2012 school year and afterwards, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before August 1 of the year in which they are seeking initial enrollment.

(2) Any student who has been enrolled in a state-accredited or state-approved kindergarten program in another state for at least sixty (60) days, who will become five (5) years old during the year in which he or she is enrolled in kindergarten, and who meets the basic residency requirement for school attendance may be enrolled in kindergarten upon written request to the school district.

(3)(A) Notwithstanding the age requirements in subdivision (a)(1) of this section, a public school or public school district shall allow a child to enroll in kindergarten if the child:

(i) Was enrolled in a state-approved prekindergarten program during the 2008-2009 school year;

(ii) Attended a state-approved prekindergarten program for at least one hundred (100) days during the 2008-2009 school year and each subsequent year in which he or she has been enrolled in a state-approved prekindergarten program; and

(iii) Will be at least five (5) years of age no later than September 15 during the year in which he or she enrolls in kindergarten.

(B) As used in this subdivision (a)(3), "state-approved prekindergarten program" means a prekindergarten program that is accredited and quality-approved by the Department of Human Services Division of Child Care and Early Childhood Education.

(b)(1) Any child may enter the first grade in the public schools of this state if the child will attain the age of six (6) years during the school year in which the child is seeking enrollment and the child has successfully completed a kindergarten program in a public school in this state.

(2) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be enrolled pursuant to § 6-18-201(f).

(3) Any child who has been enrolled in the first grade in a state-accredited or state-approved elementary school in another state for a period of at least sixty (60) days, who will become six (6) years of age during the school year in which the child is enrolled in grade one (1), and who meets the basic residency requirement for school attendance may be enrolled in the first grade.

**History.** Acts 1983 (Ex. Sess.), No. 60, § 2; 1985, No. 1029, § 1; A.S.A. 1947, § 80-1501.2; Acts 1989, No. 598, § 2; 1997, No. 1230, § 2; 1999, No. 570, § 2; 2001, No. 1535, § 2; 2007, No. 462, § 1; 2009, No. 29, § 1.

**Amendments.** The 2007 amendment added the (a)(1)(A) designation; in



(a)(1)(A), added “For the 2009-2010 school year” at the beginning and substituted “September 1, 2009” for “September 15”; added (a)(1)(B) and (a)(1)(C); and made related changes.  
The 2009 amendment added (a)(3).

### **6-18-209. Adoption of student attendance policies — Effect of excessive absences.**

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include excessive absences as a mandatory basis for denial of promotion or graduation.

**History.** Acts 1983 (Ex. Sess.), No. 60, § 4; 1985, No. 1069, § 1; A.S.A. 1947, § 80-1504; Acts 2011, No. 1223, § 1.

**Amendments.** The 2011 amendment substituted “excessive absences” for “excessive unexcused absences” in (c).

### **6-18-220. Additional absences granted for participation in FFA, FHA, and 4-H programs — Equal treatment.**

(a) The General Assembly finds and declares that:

(1) The FFA, FHA, and 4-H programs in the state involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Arkansas;

(2) The principles and practices learned by school students in the FFA, FHA, and 4-H programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to grant additional absences to students who participate in officially sanctioned activities of those organizations.

(b) Therefore, it is the purpose and intent of this section to assure that class absences of students who are participating in sanctioned FFA, FHA, and 4-H activities are excused to such extent as may be determined by the boards of directors of the respective districts, with the participants in the three (3) programs being treated equally with respect to such absences.

(c) Any school district that grants additional absences of FFA member students who attend officially sanctioned FFA activities shall afford equal treatment to FHA and 4-H member students who attend the same or similar officially sanctioned activities.

**History.** Acts 1981, No. 245, §§ 1, 2; 1981, No. 382, §§ 1, 2; 1981, No. 689, §§ 1, 2; A.S.A. 1947, §§ 80-1558 — 80-1561; Acts 2011, No. 1223, §§ 2, 3.

**Amendments.** The 2011 amendment substituted “grant additional absences to

students who participate” for “excuse the absences of students from regular classes when the students are participating” in (a)(4); and substituted “grants additional” for “excuses” in (c).

**6-18-222. Penalty for excessive absences — Revocation of driving privilege.**

(a)(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of excessive absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, excessive absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having excessive absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2) The State Board of Career Education shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program. The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district's student attendance policy or the State Board of Career Education's student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

(4)(A)(i) A student's parent, guardian, or person in loco parentis and the community truancy board, if the community truancy board has been created, shall be notified when the student has accumulated excessive absences equal to one-half ( $\frac{1}{2}$ ) the total number of absences permitted per semester under the school district's or the State Board of Career Education's student attendance policy.

(ii) Notice shall be by telephonic contact with the student's parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day.

(iii) Notice to the community truancy board, if the community truancy board has been created, shall be by letter to the chair of the community truancy board.

(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent, guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student's absences.

(C) If the community truancy board has scheduled a conference and the student's parent, guardian, or person in loco parentis does not attend the conference, the conference may be conducted with the student and a school official. However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D)(i) Before a student accumulates the maximum number of absences allowed in a school district's student attendance policy, the



student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

(a) Designee of the school administration or of the school district administration;

(b) Student's parent, guardian, or person in loco parentis; and

(c) Student.

(5)(A) When a student exceeds the number of excessive absences provided for in the district's or the State Board of Career Education's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6)(A)(i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

(7)(A) The purpose of the penalty set forth in this subsection is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(B)(i) When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills.

(ii) When practicable and appropriate, the court may utilize mandatory attendance at the programs as well as community service requirements in lieu of monetary penalties.

(8) As used in this section, "prosecuting authority" means:

(A) The elected district prosecuting attorney or his or her appointed deputy for schools located in unincorporated areas of the county or within cities not having a police or district court; and

(B) The prosecuting attorney of the city for schools located within the city limits of cities having either a police court or a district court in which a city prosecutor represents the city for violations of city ordinances or traffic violations.

(9) In any instance in which it is found that the school district, the adult education program, or the prosecuting authority is not complying with the provisions of this section, the State Board of Education may petition the circuit court to issue a writ of mandamus.

(b)(1)(A) Each public, private, or parochial school shall notify the Department of Finance and Administration whenever a student fourteen (14) years of age or older is no longer in school.

(B) Each adult education program shall notify the department whenever a student sixteen (16) or seventeen (17) years of age has left the program without receiving a high school equivalency certificate.

(2)(A) Upon receipt of notification, the department shall notify the licensee by certified mail, return receipt requested, that his or her motor vehicle operator's license will be suspended unless a hearing is requested in writing within thirty (30) days from the date of notice.

(B) The licensee shall be entitled to retain or regain his or her license by providing the department with adequate evidence that:

(i) The licensee is eighteen (18) years of age;

(ii) The licensee is attending school or an adult education program;

or

(iii) The licensee has obtained a high school diploma or its equivalent.

(C)(i) In cases in which demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the department may grant exceptions only to the extent necessary to ameliorate the hardship.

(ii) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(3) The department shall have the power to promulgate rules and regulations to carry out the intent of this section and shall distribute to each public, private, and parochial school and each adult education program a copy of all rules and regulations adopted under this section.

**History.** Acts 1989, No. 473, §§ 1, 2; 1989 (3rd Ex. Sess.), No. 70, §§ 1-5; 1991, No. 876, § 1; 1992 (1st Ex. Sess.), No. 42, § 1; 1994 (2nd Ex. Sess.), No. 30, § 2; 1994 (2nd Ex. Sess.), No. 31, § 2; 1995, No. 572, § 1; 1995, No. 837, § 3; 1995, No. 1296, § 23; 1997, No. 1308, § 1; 1999, No. 1323, § 20; 1999, No. 1579, § 2[3]; 2003, No. 1166, § 38; 2011, No. 1223, § 4.

**Amendments.** The 2011 amendment



substituted "State Board of Career Education and Career Opportunities" in (a)(2); substituted "State Board of Career Education's" for "board's" in (a)(3), (a)(4)(A)(i), and (a)(5)(A); inserted "if the community truancy board has been created" with minor variations in (a)(4)(A)(i), (a)(4)(A)(iii), (a)(4)(B), and (a)(5)(A); in (a)(4)(C), inserted "the community truancy board has

scheduled a conference and" and substituted "student's absences" for "child's absence"; inserted (a)(4)(D); and, in (a)(5)(A), substituted "excessive absences" for "excessive unexcused absences" and inserted "or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section."

### **6-18-227. Arkansas Opportunity Public School Choice Act of 2004.**

(a)(1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2)(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a school designated as a level 1 school under § 6-15-2103 for two (2) or more consecutive years; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school that is performing satisfactorily.

(C) This section shall take effect with the implementation of school performance category levels.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a failing school to another public school in the state, subject to the restrictions contained in this section.

(b)(1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district to another public school in accordance with the provisions of this section if:

(A) The resident public school has been designated pursuant to § 6-15-2103 as a level 1 school for two (2) or more consecutive school years; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2)(A)(i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, makes application no later than July 30 for attendance or transfer as provided for by §§ 6-18-202, 6-18-206, and 6-18-316.

(ii) Such a transfer shall be effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3)(A) For each student enrolled in or assigned to a school that has been designated as a level 1 school for two (2) or more consecutive school years, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available pursuant to this section; and

(ii) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school that has been designated by the state pursuant to § 6-15-2103 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than annual performance category level 3. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(B)(i) The parent or guardian of a student enrolled in or assigned to a school that has been designated as a school in level 1 under § 6-15-2103 for two (2) or more consecutive years may choose as an alternative to enroll the student in a legally allowable category level 3 or higher performing public school nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding pursuant to applicable state law.



(C)(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., and who participate in this program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for such a student shall be transferred to the district to which the student transfers.

(c)(1)(A) The receiving district or charter school may transport students to and from the transferring district or charter school, and the cost of transporting students shall be the responsibility of the transferring district or charter school except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring district or charter school shall not be required to spend more than four hundred dollars (\$400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring district's receiving a category level 3 or higher for its annual performance, the transportation costs shall no longer be the responsibility of the transferring district, and the student's transportation and the costs of the transportation shall be the responsibility of the parents.

(d)(1)(A) Each district school board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2)(A)(i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) A lack of capacity may be claimed by a school district only if the school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, or other applicable regulations.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e)(1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d), (e), and (i) and shall not be subject to any other limitation or restriction provided by law.



(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each district school board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h)(1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j)(1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the Joint Interim Committee on Education.

(k)(1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to § 6-15-433.

(3) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l)(1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

**History.** Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1.

**A.C.R.C. Notes.** Pursuant to § 1-2-207, subdivision (e)(1) is set out above as amended by Acts. Subdivision (e)(1) was also amended by Acts 2011, No. 1124, § 1, to read as follows: “(e)(1) The provisions of this section and all student choice options created in this section are subject only to the limitations of § 6-18-206(d)-(e), (g), and (i).”

**Amendments.** The 2011 amendment by No. 1124, in present (e)(1), inserted “only” and substituted “§ 6-18-206(e)-(e), (g), and (i)” for “6-18-206(d)-(f)”; added

(e)(2); and deleted former (k)(2) and redesignated the remaining subdivision accordingly.

The 2011 amendment by No. 1147 rewrote (c)(1); substituted “responsibility of the transferring district” for “responsibility of the state” in (c)(2); rewrote (d)(2); inserted (d)(3) and (d)(4); added (e)(2) and redesignated the existing language of (e) as (e)(1); and substituted “shall comply with § 6-18-206(d), (e), and (i) and shall not be subject to any other limitation or restriction provided by law” for “are subject to the limitations of § 6-18-206(d)-(f)” in (e)(1).

## **6-18-230. Minimum age for enrolling in prekindergarten.**

(a)(1) For the 2009-2010 school year:

(A) A child may enter a prekindergarten program for children three (3) years of age if the child will attain three (3) years of age on or before August 1, 2009; and

(B) A child may enter a prekindergarten program for children four (4) years of age if:

(i) The child will attain four (4) years of age on or before August 15, 2009; or

(ii) The child was enrolled in a prekindergarten program for children three (3) years of age for a minimum of one hundred (100) days during the 2008-2009 school year.

(2) For the 2010-2011 school year and each school year thereafter:

(A) A child may enter a prekindergarten program for children three (3) years of age if the child will attain three (3) years of age on

or before August 1 immediately preceding the beginning of the school year; and

(B) A child may enter a prekindergarten program for children four (4) years of age if the child will attain four (4) years of age on or before August 1 immediately preceding the beginning of the school year.

(b)(1) The Division of Child Care and Early Childhood Education of the Department of Human Services shall notify all providers of appropriate early childhood programs for prekindergarten of the age requirements specified in subsection (a) of this section by providing one (1) written notification letter sent to each provider of appropriate early childhood programs for prekindergarten at the address of record on file with the Department of Human Services.

(2) The prekindergarten age requirements specified in subsection (a) of this section shall be published on the website of the:

(A) Department of Human Services; and

(B) Department of Education.

**History.** Acts 2009, No. 426, § 1.

**A.C.R.C. Notes.** Acts 2009, No. 426, § 2, provided: "For the 2009-2010 school year, the division shall notify all providers

of appropriate early childhood programs for prekindergarten of the new age requirements no later than fourteen (14) days after enactment."

#### SUBCHAPTER 4 — ARKANSAS AMERICAN COLLEGE TEST ASSESSMENT ASSISTANCE PILOT PROGRAM

SECTION.

6-18-401 — 6-18-408. [Repealed.]

#### 6-18-401 — 6-18-408. [Repealed.]

**Publisher's Notes.** This subchapter was repealed by Acts 2011, No. 989, § 61. The subchapter was derived from the following sources:

6-18-401. Acts 1999, No. 1226, § 1.

6-18-402. Acts 1999, No. 1226, § 2; 2001, No. 1093, § 1.

6-18-403. Acts 1999, No. 1226, § 3.

6-18-404. Acts 1999, No. 1226, § 4; 2001, No. 1093, § 2.

6-18-405. Acts 1999, No. 1226, § 5.

6-18-406. Acts 1999, No. 1226, § 8.

6-18-407. Acts 1999, No. 1226, § 6.

6-18-408. Acts 1999, No. 1226, § 7.

#### SUBCHAPTER 5 — DISCIPLINE

SECTION.

6-18-503. Written student discipline policies required.

6-18-507. Suspension — Expulsion.

SECTION.

6-18-508, 6-18-509. [Repealed.]

6-18-513. Parental notification.

6-18-514. Antibullying policies.

**Effective Dates.** Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's

public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state's public schools and education service cooperatives operate effective alternative learning environments;



that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irrepa-

rable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

## **6-18-502. Guidelines for development of school district student discipline policies.**

### **CASE NOTES**

#### **Education.**

Trial court properly granted summary judgment to a teacher and principal in a student's suit alleging conversion, trespass to chattels, and due process violations, arising from the teacher's alleged

wrongful taking of the student's cell phone. This section authorized penalties for misconduct other than those specifically listed. *Koch v. Adams*, 2010 Ark. 131, — S.W.3d — (2010).

## **6-18-503. Written student discipline policies required.**

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education and shall file such policies with the department.

(B) Guidelines shall include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a handicapping condition in an alternative learning environment provided by the district; and

(ii) Expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) Behavioral problems shall include those at risk of not satisfactorily completing a high school education.

(b)(1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

(2) As used in this section, “teachers and administrators” means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

(c)(1) A school district shall include in its student discipline policies a provision prohibiting students from wearing, while on the grounds of a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female.

(2) Subdivision (c)(1) of this section shall not apply to a costume or uniform worn by a student while participating in a school-sponsored activity or event.

(3) A school district shall specify in its student discipline policies the disciplinary actions that will be taken against a student for a violation of subdivision (c)(1) of this section.

(4) Subdivision (c)(1) of this section shall not be enforced in a manner that discriminates against a student on the basis of his or her race, color, religion, sex, disability, or national origin.

(d) Any amendments or revisions to a school district’s student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the guidelines established by the department.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department within thirty (30) days after the adoption of such amendment or revision.

**History.** Acts 1983 (Ex. Sess.), No. 77, § 2; 1983 (Ex. Sess.), No. 104, § 2; A.S.A. 1947, § 80-1629.7; Acts 1991, No. 830, § 1; 1994 (2nd Ex. Sess.), No. 51, §§ 2, 5; 1995, No. 333, § 1; 1995, No. 567, § 2; 2011, No. 835, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 835, § 1, provided: “Legislative intent.

“(a) The General Assembly finds that the wearing of clothing that exposes underwear, buttocks, or the breast of a female by students in the public schools often preoccupies and distracts students from their major purpose for being in school, that of becoming educated in math, science, English, history, and other subjects.

“(b) The General Assembly further finds that student competition over the manner in which clothing is worn could lead to violence and injuries during school hours.

“(c) The General Assembly further finds that, as part of their preparation for students to enter the workforce, public schools should encourage and train students to dress in a manner that would be acceptable in the workplace.

“(d) The General Assembly finds that prohibiting students from wearing, while on the grounds of a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female will prevent disruptions in the learning environment, advance the education of students, enhance the preparation of students to enter the workforce, and make disruptive incidents of violence less likely to occur.”

**Amendments.** The 2011 amendment added (c) and redesignated the remaining subsections accordingly.

## 6-18-507. Suspension — Expulsion.

(a) As used in this section:

(1) “Course time” means the number of hours of instruction devoted to a single subject during the school week;



(2) "Expulsion" means dismissal from school for a period of time that exceeds ten (10) days;

(3) "Nontraditional scheduling" means block or other alternative scheduling as defined by the Department of Education; and

(4) "Suspension" means dismissal from school for a period of time that does not exceed ten (10) days.

(b) The board of directors of a school district may suspend or expel any student from school for violation of the school district's written discipline policies.

(c)(1) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district's written discipline policies, subject to appeal to the superintendent or his or her designee; however, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d)(1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district's written discipline policies, subject to appeal to the board of directors and to requirements of the federal Individuals with Disabilities Education Act.

(2)(A) After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors may consider its decision in executive session without the presence of anyone other than the board members.

(B) At the conclusion of an executive session, the board of directors shall reconvene in public session to vote on the suspension, expulsion, or appeal.

(3) A school district board of directors meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e)(1) The superintendent of any school district shall recommend the expulsion of any student from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property. The statement shall be signed by the parents, guardians, or other persons in loco



parentis prior to readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection.

(3)(A) The school administrators and the local school board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the department the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection.

(4)(A) The department shall establish and maintain a registry of students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(B) The names, addresses, and social security numbers of all students listed in the registry shall be available by phone, facsimile, or mail to any school principal in the state.

(f)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or guardian does not have a telephone; or

(C) A current mailing address if the parent or guardian does not have a telephone or email address.

(3) The contact required in subsection (f) of this section is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

**History.** Acts 1931, No. 169, § 170; Pope's Dig., § 11612; Acts 1979, No. 441, § 1; A.S.A. 1947, § 80-1516; Acts 1995, No. 567, § 3; 1997, No. 742, § 1; 1999, No. 1150, § 1; 2007, No. 159, § 1; 2009, No. 1445, § 1.

**Amendments.** The 2007 amendment inserted "or her" in (c)(1); and added (f).

The 2009 amendment inserted (d)(2)(A), redesignated the subsequent subdivision accordingly, and made a minor stylistic change.

## **6-18-508, 6-18-509. [Repealed.]**

**Publisher's Notes.** These sections, concerning alternative learning environment and assessment and intervention in alternative learning environments, were repealed by Acts 2011, No. 1118, § 2. They were derived from the following sources:

No. 597, § 1; 1995, No. 1296, § 24; 1997, No. 112, § 11; 1999, No. 391, § 12; 1999, No. 1299, § 1; 2005, No. 2121, § 9; 2007, No. 617, § 13.

6-18-509. Acts 1993, No. 1287, § 1; 1995, No. 597, § 2; 1999, No. 1299, § 2; 2005, No. 2121, § 10.

## **6-18-513. Parental notification.**

(a) A school or school district shall comply with subsection (b) of this section if the school or school district with respect to a student under the age of eighteen (18):

(1) Makes a report to any law enforcement agency concerning student misconduct;

(2) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

(3) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

(b)(1) The principal or, in the principal's absence, the principal's designee shall make a reasonable, good faith effort to notify the student's parent, legal guardian, or other person having lawful control of the student by court order or person acting in loco parentis listed on student enrollment forms of the occurrence of any of the events in subsection (a) of this section.

(2) The principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(3) If the principal or the principal's designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal's designee and leave both a day and an after-hours telephone number.

(c) Notification required by subsection (b) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under § 12-18-401 et seq. or if a law enforcement officer, investigator of the Crimes Against Children Division of the Department of Arkansas State Police, or Department of Human Services investigator or personnel member interviews a stu-

dent during the course of an investigation of suspected child maltreatment.

(d)(1) The principal or the principal's designee shall not provide notification under subsection (b) of this section if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in loco parentis is named as an alleged offender.

(2) The investigator shall provide the school with documentation that notification to the parent, guardian, custodian, or person standing in loco parentis is prohibited.

(e) Subsection (d) of this section shall only apply to interview requests made by:

- (1) A law enforcement officer;
- (2) An investigator of the Crimes Against Children Division of the Department of Arkansas State Police; or
- (3) An investigator or employee of the Department of Human Services.

**History.** Acts 2001, No. 1217, § 1; 2005, No. 1415, § 1; 2009, No. 758, § 6; 2011, No. 613, § 1; 2011, No. 981, § 8.

**A.C.R.C. Notes.** The contingency in Acts 2009, No. 758, § 29, was met by Acts 2009, No. 749.

**Amendments.** The 2009 amendment substituted "Subchapter 4 of the Child Maltreatment Act, § 12-18-101 et seq." for "§ 12-12-507" in (c).

The 2011 amendment by No. 613 added (d) and (e).

The 2011 amendment by No. 981 substituted "§ 12-18-401" for "Subchapter 4 of

the Child Maltreatment Act, § 12-18-101" in (c).

**Effective Dates.** Acts 2009, No. 758, § 29, provided: "Contingent Effectiveness. This act shall not become effective unless an act of the Eighty-Seventh General Assembly repealing the Arkansas Child Maltreatment Act, § 12-12-501 et seq., and enacting a new Child Maltreatment Act, § 12-18-101 et seq., becomes effective."

## 6-18-514. Antibullying policies.

(a) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

(1) "Attribute" means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;

(2) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other



student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

(A) Physical harm to a public school employee or student or damage to the public school employee's or student's property;

(B) Substantial interference with a student's education or with a public school employee's role in education;

(C) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(D) Substantial disruption of the orderly operation of the school or educational environment;

(3) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(4) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(5) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) A school principal or his or her designee who receives a credible report or complaint of bullying shall promptly investigate the complaint or report and make a record of the investigation and any action taken as a result of the investigation.

(e)(1) The board of directors of every school district shall adopt policies to prevent bullying.

(2) The policies shall:

(A)(i) Clearly define conduct that constitutes bullying.

(ii) The definition shall include without limitation the definition contained in subsection (b) of this section;

(B) Prohibit bullying:

(i) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events; or

(ii)(a) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment,

if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(D) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of bullying as defined by the district shall report the incident to the principal;

(E) Require that the person or persons who file a complaint will not be subject to retaliation or reprisal in any form;

(F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district; and

(G) Require that copies of the notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be provided to parents, students, school volunteers, and employees. Each policy shall require that a full copy of the policy be made available upon request.

(f) A school district shall provide training on compliance with the antibullying policies to all public school district employees responsible for reporting or investigating bullying under this section.

(g) A school employee who has reported violations under the school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident.

(h) The board of directors of a school district may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by this policy.

(i)(1) The school district shall file with the Department of Education a copy of the policies adopted in compliance with this section.

(2) The State Board of Education shall review the policies provided by the school districts and may recommend changes or improvements to the districts if the state board determines that the policies need improvement.

(j) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying or school violence or policies to promote civility and student dignity that are more inclusive than the antibullying policies required under this section; or

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly.

**History.** Acts 2003, No. 681, § 1; 2005, No. 1437, § 1; 2007, No. 115, § 1; 2011, No. 907, § 1.

**Amendments.** The 2007 amendment, in (a), added (a)(1), redesignated the ex-

isting provisions as (a)(2), inserted "public" in (a)(2), and added (a)(3); in (b), added (b)(1)(B), redesignated the existing provision as (b)(1)(A), added (b)(2)(B), redesignated the existing provisions as (b)(2)(A);

and inserted "equipment or" in (b)(2)(A); and made related changes.

The 2011 amendment deleted former (a)(2), inserted present (b)(1), (c), (d), (e)(1), (f), and (j), and redesignated the remaining subsections accordingly; substituted "this section" for "this subchap-

ter" in the introductory language of present (b); and substituted "may address an attribute ... actual or reasonably foreseeable" for "causes or creates a clear and present danger of" at the end of present (b)(2).

## CASE NOTES

### Construction.

Federal district court dismissed parents' claim seeking damages from a school district and a vice principal under this section, based on allegations that the district and the vice principal failed to protect their son from attacks by other children. Although this section guaranteed

public school students the right to receive their education in an environment that was reasonably free from substantial intimidation, harassment, or harm or threat of harm by other students, it did not create a private right of action. *Wolfe v. Fayetteville Ark. Sch. Dist.*, 600 F. Supp. 2d 1011 (W.D. Ark. 2009).

## SUBCHAPTER 7 — HEALTH

### SECTION.

6-18-708. Health and safety in public schools.

**A.C.R.C. Notes.** Acts 2009, No. 1453, § 1, provided:

"(a) There is created the Arkansas Legislative Task Force on Athletic Training in Public Schools.

"(b) The task force shall consist of the following:

"(1) Voting members:

"(A) Three (3) members of the General Assembly appointed by the Chair of the Senate Committee on Education;

"(B) Three (3) members of the General Assembly appointed by the Chair of the Senate Committee on Public Health, Welfare, and Labor;

"(C) Three (3) members of the General Assembly appointed by the Chair of the House Committee on Education; and

"(D) Three (3) members of the General Assembly appointed by the Chair of the House Committee on Public Health, Welfare, and Labor; and

"(2) Nonvoting members:

"(A) One (1) member from the Department of Workforce Education;

"(B) One (1) member from the Department of Education;

"(C) One (1) member from the Department of Higher Education;

"(D) One (1) member from the Arkansas Athletic Trainers Association;

"(E) One (1) member from the Arkansas School Nurses Association;

"(F) One (1) member from the Arkansas Activities Association;

"(G) One (1) member from the Arkansas Rural Education Association; and

"(H) One (1) member from the Arkansas Association of Educational Administrators.

"(c)(1) A chair shall be selected by majority vote of all voting members at the first meeting of the task force, which shall be held within thirty (30) days of the effective date of this act.

"(2) Only voting members of the task force are eligible to chair the task force.

"(3) The chair shall exercise his or her vote only in the case of a tie vote.

"(d) Meetings of the task force shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair or by petition by a majority of the voting members.

"(e) The task force may solicit, accept, and expend gifts and grants.

"(f) If a vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.



“(g) The task force shall establish rules and procedures for conducting business.

“(h) Legislative members of the task force shall be entitled to receive reimbursement for expenses and per diem at the same rate and from the same source as provided by law for members of the General Assembly attending meetings of interim committees.

“(i) A majority of the members of the task force shall constitute a quorum for transacting any business of the task force.

“(j) The Bureau of Legislative Research shall provide staff for the task force.

“(k) The task force shall be abolished on December 31, 2010.”

Acts 2009, No. 1453, § 2, provided:

“(a) The Arkansas Legislative Task Force on Athletic Training in Public Schools shall:

“(1) Study health care issues concerning secondary school student athletes;

“(2) Evaluate the current athletic training curriculum and recommend changes to the athletic training curriculum;

“(3) Monitor the standards of care for student athletes; and

“(4) Explore funding opportunities for potential pilot programs.

“(b) The task force shall submit a written report to the House Committee on Education and the Senate Committee on Education no later than November 1, 2010.”

Acts 2011, No. 1214, § 2, provided: “Public School Athletic Trainer Pilot Program.

“(a)(1) The Department of Education shall provide grants for providing access to one (1) or more athletic trainers to public schools in Arkansas through the two-year Public School Athletic Trainer Pilot Program.

“(2) The pilot program grants shall be awarded before the 2011-2012 school year in order to allow time for program participants to employ the athletic trainers.”

“(b) The department shall accept and review applications for participation in the pilot program from:

“(1) Any school that is classified as Class 6A or below by the Arkansas Activities Association; and

“(2) Education service cooperatives.

“(c) To be eligible for participation in the pilot program, a school shall agree to

provide a room and supplies for the athletic trainer.

“(d)(1) The grant recipients shall be selected by the department in consultation with the Arkansas Legislative Task Force on Athletic Training in Public Schools.

“(2) At least one (1) rural education service cooperative shall be selected to receive a grant.

“(e) The pilot program shall:

“(1) Begin with the 2011-2012 school year;

“(2) Be implemented by the participating education service cooperatives; and

“(3) Be monitored by:

“(A) The nonvoting members of the Arkansas Legislative Task Force on Athletic Training in Public Schools, or their designee; or

“(B)(i) A subcommittee of the House Committee on Education, or its designee.

“(ii) The subcommittee may be a joint subcommittee of both the House Committee on Education and the Senate Committee on Education.

“(e) At the end of the pilot program, the persons monitoring the pilot program shall provide a report to the General Assembly containing an evaluation of the pilot program and any additional recommendations for the employment and use of athletic trainers in Arkansas public schools.”

Acts 2011, No. 1214, § 3, provided: “Section 1(k) of Act No. 1453 of the 2009 regular session of the 87th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

“(k) The task force shall be abolished on December 31, 2012.”

Acts 2011, No. 1214, § 4, provided: “Section 2(b) of Act No. 1453 of the 2009 regular session of the 87th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

“(b) The task force shall submit a written report to the House Committee on Education and the Senate Committee on Education no later than November 1, 2012.”

Acts 2011, No. 1214, § 5, provided: “(a) The Arkansas Legislative Task Force on Athletic Training in Public Schools shall develop a web-based survey to be com-

pleted by each public school in Arkansas through the Department of Education website.

“(b) The survey shall include without limitation questions concerning:

“(1) The recruitment, hiring, and retention of athletic trainers;

“(2) Professional development and certification or licensure of athletic training personnel; and

“(3) Procedures and training on the recognition and management of the following events or conditions that may be encountered by a student during athletic training and activities:

“(A) A concussion, dehydration, or other health emergency;

“(B) An environmental issue that threatens the health or safety of students; and

“(C) A communicable disease.

“(c) The survey shall be reviewed by the nonvoting members of the Arkansas Legislative Task Force on Athletic Training in Public Schools and a report on the survey results and any additional recommendations shall be included in the task force’s report to the General Assembly.”

### 6-18-703. School-based health clinics.

**A.C.R.C. Notes.** Acts 2011, No. 1074, § 30, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in accordance with Arkansas Code Annotated § 6-18-703.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

Acts 2011, No. 1075, § 29, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in ac-

cordance with Arkansas Code Annotated §6-18-703.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

Acts 2011, No. 1102, § 29, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in accordance with Arkansas Code Annotated § 6-18-703.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

### 6-18-708. Health and safety in public schools.

(a) A school district shall develop procedures concerning student physical activity in its public schools that include without limitation the recognition and management of the following events or conditions that may be encountered by a student during athletic training and physical activities:

(1) A concussion, dehydration, or other health emergency;

(2) An environmental issue that threatens the health or safety of students; and

(3) A communicable disease.

(b)(1) Every three (3) years as part of the requirements for professional development, a person employed by a school district as an athletics coach shall complete training on the events and conditions identified in subsection (a) of this section.

(2) The training may include a component on best practices for a coach to educate parents of students involved in athletics on sports safety.

History. Acts 2011, No. 1214, § 1.

## SUBCHAPTER 10 — PUBLIC SCHOOL STUDENT SERVICES ACT

### SECTION.

6-18-1005. Student services program defined.

### 6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

(A) Evaluation of students with learning or adjustment problems;

(B) Evaluation of students in exceptional child education programs;



(C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;

(D) A system for the early identification of learning potential and factors that affect the child's educational performance;

(E) A system of liaison and referrals, with resources available outside the school; and

(F) Written policies that assure ethical procedures in psychological activities;

(3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:

(A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and

(B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;

(4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

(B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

(C) Programs designed to prevent bullying;

(6) Health services, which shall include, but are not limited to, the following:

(A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;

(B)(i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under § 17-87-103(10) and (11).

(ii) The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under § 17-87-103(11); and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.

**History.** Acts 1991, No. 908, §§ 3, 6; 1997, No. 1275, § 2; 1999, No. 1565, § 1; 2003, No. 681, § 2; 2005, No. 1757, § 2; 2005, No. 1949, § 2; 2007, No. 1573, §§ 27, 28; 2011, No. 1172, § 1; 2011, No. 1204, § 2.

**Amendments.** The 2007 amendment, in (a)(1), substituted “augmented, criterion-referenced, or norm-referenced assessments” for “criterion-referenced and

norm-referenced testing” in (F), and substituted “forty-minute” for “thirty minute” in (L).

The 2011 amendment by No. 1172 substituted “each month during the school year” for “each week” twice in (b).

The 2011 amendment by No. 1204 inserted “unless permitted under § 17-87-103(10) and (11)” in (a)(6)(B)(i); and added the exception in (a)(6)(B)(ii).

## SUBCHAPTER 14 — FAMILY RESOURCE CENTERS ACT

### SECTION.

6-18-1406. Implementation plans.

### 6-18-1406. Implementation plans.

(a) The implementation plan developed by the State Child Abuse and Neglect Prevention Board with input from the local advisory groups, the local school district, and the priority elementary school shall include an effort to implement a network of family resource centers across the state.

(b) The family resource centers shall be located in or near each priority elementary school.

(c) The implementation plan shall promote identification and coordination of existing resources, including any program that currently exists at the school under a parental involvement plan under § 6-15-1701 et seq.

(d) The implementation plan may include the following components for each site:

(1)(A) Information and referral activities:

(i) For off-site services to assist participants in having their basic needs met; and

(ii) That provide participants with a point of entry to available support networks.

(B) Examples of off-site service referrals include without limitation the following:

(i) Child care centers;

(ii) Health care providers;

(iii) Counseling services;

- (iv) Legal aid;
- (v) Food banks;
- (vi) Housing and domestic violence shelters; and
- (vii) Federal agencies, state agencies, or other entities that provide benefits or services that the participants may need;

(2)(A) Parenting education services to promote the sharing of information, strategies, and tools to help parents with the difficult job of being parents.

(B) Examples of parenting activities include, but are not limited to, the following:

- (i) Group-based parent education classes;
- (ii) Providing credentialed guest speakers; or
- (iii) Making materials on parenting issues available to parents through lending libraries or take-home materials;

(3)(A) Child development activities to strengthen the parent and child bond and to promote optimal development of a child by assisting parents in the utilization, understanding, and application of early child development activities.

(B) Child development activities shall emphasize child development during the earliest years, specifically zero to three (0-3) years of age.

(C) Child development activities shall address the following:

- (i) Healthy physical development;
- (ii) Cognitive development;
- (iii) Social development; or
- (iv) Emotional development.

(D) Specific strategies to promote child development within family resource centers may include the following:

- (i) Referring or establishing quality child care or after-school care programs;
- (ii) Providing developmental screenings;
- (iii) Educating parents about developmental milestones;
- (iv) Providing literacy and pre-literacy activities such as story time;
- (v) Providing play groups or “make and take” activities for young children; or
- (vi) Establishing toy, book, computer, or technology sharing or lending libraries.

(E) Child development activities may be conducted at the family resource centers through home visiting programs such as Home Instruction for Parents of Preschool Youngsters (HIPPY) or as part of Head Start;

(4) Life skills education to provide an opportunity for participants to strengthen skills and competencies that will help them succeed in everyday tasks to include, but not be limited to, the following:

- (A) Developing and maintaining a household budget;
- (B) Shopping for and preparing nutritious meals;
- (C) Securing and maintaining employment;



- (D) Conflict resolution skills;
- (E) Goal setting;
- (F) Time management;
- (G) Decision making; or
- (H) Stress management;

(5)(A) Family literacy to connect education for children with literacy instruction for their parents.

(B) Family literacy activities may include the following:

- (i) Adult literacy instruction for parents;
- (ii) General education diploma instruction for parents;
- (iii) Referral to a vocational educational institution or an institution of higher education in the state;
- (iv) Information provided on scholarships that might be available to the parent if the parent decides to proceed with higher education;
- (v) Child literacy programs; or
- (vi) Parent and child literacy activities; and

(6)(A) Informal network building to assist families in developing a network of mutual support, to include caring, resource sharing, emotional support, and social support.

(B) The informal network building program shall be designed to promote activities to help parents get to know one another, raise their social capital, and reduce their isolation.

(C) Examples of informal network building programs include the following:

- (i) Support groups;
- (ii) Social activities;
- (iii) Family celebrations;
- (iv) Recreational activities;
- (v) Holiday gatherings; or
- (vi) Newsletters.

(e) The State Child Abuse and Neglect Prevention Board and the local advisory group shall agree which of the components in subsection (d) of this section are core components or optional components based on the individual implementation plan for each priority elementary school's family resource center.

(f)(1) The State Child Abuse and Neglect Prevention Board shall determine which schools meet the definition of priority elementary schools under this subchapter by July 1, 2004.

(2) The Department of Education and the State Board of Education shall provide all information necessary in the format necessary for the State Child Abuse and Neglect Prevention Board to meet the deadline under this subsection.

(g)(1) The State Child Abuse and Neglect Prevention Board shall select a minimum of ten (10) eligible priority elementary schools for which an implementation plan shall be completed, subject to funding.

(2) The State Child Abuse and Neglect Prevention Board shall complete its implementation plan for a minimum of ten (10) priority elementary schools on or before December 1, 2004, subject to funding.

(h) On or before August 1, 2005, family resource centers shall be established in or adjacent to a minimum of ten (10) priority elementary schools, subject to funding.

**History.** Acts 2003 (2nd Ex. Sess.), No. 68, § 1; 2009, No. 376, § 37. redesignated (d)(1), and made minor stylistic changes.

**Amendments.** The 2009 amendment

SUBCHAPTER 16 — VOLUNTARY UNIVERSAL ACT ASSESSMENT PROGRAM ACT

SECTION.  
6-18-1602. Definitions.

**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-18-1602. Definitions.

As used in this subchapter:

(1) "ACT Assessment" means a test of student educational development that measures student readiness for future learning and that may be used by institutions of higher education as part of their admissions, placement, and scholarship processes and by high schools to improve college and workforce readiness; and

(2) "Smart Core" means the required curriculum that is part of Smart Future, a state initiative focused on improving Arkansas public schools for all students so they are prepared for life beyond graduation.

**History.** Acts 2007, No. 881, § 1; 2009, No. 1469, § 8. substituted "Smart Future" for "Next Step" in (2).

**Amendments.** The 2009 amendment

SUBCHAPTER 17 — INTERNATIONAL STUDENT EXCHANGE VISITOR PLACEMENT ORGANIZATION REGISTRATION ACT

SECTION.  
6-18-1701. Title.  
6-18-1702. Legislative findings.

SECTION.  
6-18-1703. Definitions.  
6-18-1704. Compliance required.

## SECTION.

6-18-1705. Rules.

6-18-1706. International student exchange visitor placement organization — Registration.

## SECTION.

6-18-1707. Informational document.

6-18-1708. Violations.

**6-18-1701. Title.**

This subchapter shall be known as the “International Student Exchange Visitor Placement Organization Registration Act”.

**History.** Acts 2009, No. 966, § 1.

**6-18-1702. Legislative findings.**

The General Assembly finds that:

(1) Many international student exchange visitor placement organizations have been established to provide students from other countries the opportunity to share their histories, languages, and cultures with their counterparts in this state;

(2) International exchange programs give the state’s students and school faculty the opportunity to share their histories, languages, and cultures with foreign students;

(3) Arkansas’s own former United States Senator James William Fulbright championed efforts to establish international exchange programs, the most famous of which bears his name, the “Fulbright Fellowships”; and

(4) This subchapter is necessary to provide a registration procedure and process for these organizations in order to make information concerning these organizations accessible to the people of Arkansas.

**History.** Acts 2009, No. 966, § 1.

**6-18-1703. Definitions.**

As used in this subchapter:

(1) “International student exchange visitor placement organization” or “organization” means a person, partnership, corporation, or other entity that regularly arranges the placement of international student exchange visitors for the purpose, in whole or in part, of allowing the student an opportunity to attend school in the United States; and

(2) “Representative” means a natural person who is responsible on behalf of an international student exchange visitor placement organization for:

(A) The selection of a suitable host family for the placement of a foreign exchange student;

(B) The enrollment of a foreign exchange student in a local public or private school; and

(C) The periodic monitoring of the foreign exchange student and his or her living conditions and educational progress.



**History.** Acts 2009, No. 966, § 1.

#### **6-18-1704. Compliance required.**

An international student exchange visitor placement organization shall not place a foreign exchange student with a host family or in a public or private school in this state without complying with this subchapter.

**History.** Acts 2009, No. 966, § 1.

#### **6-18-1705. Rules.**

The Secretary of State shall adopt necessary rules concerning the registration of international student exchange visitor placement organizations for the implementation of this subchapter.

**History.** Acts 2009, No. 966, § 1; 2011, deleted “by rule” following “adopt” and substituted “rules” for “regulations.”

**Amendments.** The 2011 amendment

#### **6-18-1706. International student exchange visitor placement organization — Registration.**

(a)(1)(A) Beginning January 1, 2010, for the 2010-2011 school year, an international student exchange visitor placement organization that proposes to place a foreign exchange student in a public or private school in this state shall submit an application for a certificate of registration with the Secretary of State by January 1 immediately preceding the next regular school year in which the organization proposes to place a foreign exchange student.

(B) The Secretary of State shall issue a certificate of registration to the organization by February 1 if the application is in order, otherwise the application shall be returned to the organization with resubmission instructions.

(2)(A) For the purpose of service of process and service of notices, an international student exchange visitor placement organization shall provide the name, address, and telephone number of an officer or employee of the organization authorized to receive and accept service of process and service of notices.

(B) If service of process and service of notices cannot be reasonably given to the officer as provided by the organization, service of process and service of notices shall be effected by service upon the Secretary of State who shall make a reasonable effort to contact and provide any process and notices to the organization.

(b) An application for registration as an international student exchange visitor placement organization shall be submitted in the form prescribed by the Secretary of State. The application shall include:

(1) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state;

(2) The organization's unified business identification number, if any;  
(3) Evidence of Council on Standards for International Educational Travel listing, if any;

(4) The organization's federal income tax exemption status;

(5) A statement of compliance declaring that all monetary and nonmonetary compensation paid to employees who are residents of Arkansas has been reported in accordance with current state income tax law;

(6) A list of the organization's placements in Arkansas for the previous academic year, including the number of students placed, their home countries, the school districts in which they were placed if placed in a public school or the private schools in which they were placed, and the length of time of their placements;

(7) The organization's most recent brochure describing its programs;

(8) Evidence of the organization's health and accident insurance;

(9) The names, addresses, and telephone numbers of the organization's local representatives for Arkansas; and

(10) Any other information the Secretary of State determines is necessary for his or her examination of the request by the organization.

(c) The application must be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility for supervising placements within Arkansas.

(d) Organizations that have registered shall inform the Secretary of State of any changes in the information required under subsection (b) of this section within thirty (30) days of the change.

(e)(1) Registration is valid for one (1) year and may be renewed annually.

(2) Organizations registering for the first time in Arkansas must pay an initial registration fee of one hundred fifty dollars (\$150).

(3) The fee to renew a registration is fifty dollars (\$50) per year.

(f) Fees collected by the Secretary of State under this section shall be deposited into the State Treasury and credited to the General Revenue Fund.

(g) The information provided the Secretary of State under this section is a public record and shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the Secretary of State's office.

(h) Registration shall not be considered or be represented as an endorsement of the organization by the Secretary of State or the State of Arkansas.

(i)(1) Only an international student exchange visitor placement organization for students from other countries to attend a public or private school approved by the United States Department of State may be considered for registration.

(2) Only an international student exchange visitor placement organization on the Advisory List of the Council on Standards for International Educational Travel may be considered for registration.

(j) An international student exchange visitor placement organization shall have a local representative who lives within one hundred twenty (120) miles of his or her assigned students.

(k)(1) An international student exchange visitor placement organization shall not place a foreign exchange student in a home or seek admission of a student in a public or private school until the international student exchange visitor placement organization has been registered with the Secretary of State for that school year.

(2) Each year, the Secretary of State shall publish a list of international student exchange visitor placement organizations registered to place foreign exchange students in host homes.

(3) Unless the Secretary of State determines that an application for registration does not comply with the filing requirements of this chapter, the Secretary of State, upon payment of all filing fees, shall file the application, prepare, sign, and file a certificate of registration, and send a copy of the filed certificate of registration with a receipt for the fees to the organization.

**History.** Acts 2009, No. 966, § 1.

## **6-18-1707. Informational document.**

International student exchange visitor placement organizations that provide services to place students in this state shall provide prior to arrival to each student, host family, and school principal of the school in which the student is being placed an informational document in English that shall include the following:

(1) An explanation of the services to be performed by the organization for the student, host family, and school district, which shall include:

(A) The name, address, and telephone number of the local representative of the placement organization and the local representative's immediate superior; and

(B) The responsibilities and duties of the local representative of the placement organization and the local representative's immediate superior;

(2) A copy of this subchapter; and

(3)(A) Telephone numbers and email addresses that the student, host family, and school district may use for assistance, which shall include the telephone numbers and email addresses of the following organizations:

(i) The United States Department of State; and

(ii) The Council on Standards for International Educational Travel.

(B) The telephone numbers shall include, at a minimum, a telephone number for the organization and the telephone numbers of the organization's national headquarters if any.

**History.** Acts 2009, No. 966, § 1.



## 6-18-1708. Violations.

An organization that fails to register as required by this subchapter or that submits false or incorrect information to the Secretary of State in filing statements required by this subchapter, whether or not the statement or report is verified, shall be prohibited from placing students in this state during the following academic year.

**History.** Acts 2009, No. 966, § 1.

## SUBCHAPTER 18 — ARKANSAS COMMISSION ON EYE AND VISION CARE OF SCHOOL-AGE CHILDREN

### SECTION.

6-18-1801. Intent.

6-18-1802. Arkansas Commission on Eye and Vision Care of School-Age Children.

### SECTION.

6-18-1803. Duties.

6-18-1804. Funding.

**A.C.R.C. Notes.** Acts 2011, No. 176, § 1, provided: “Uncodified Section 5 of Act 755 of 2003, as amended by Act 1438 of 2005, and Act 138 of 2007, concerning the Arkansas Commission on Eye and Vision Care of School Age Children, is repealed to make the act permanent.”

Acts 2011, No. 176, § 2, provided: “The Arkansas Code Revision Commission is authorized to codify Uncodified Act 755 of 2003, as amended by Act 1438 of 2005 and Act 138 of 2007.”

**Effective Dates.** Acts 2011, No. 176, § 3: Mar. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Commission on Eye and Vision Care of School Age Children expires at the end of the current state fiscal year; that the commission serves a critical function in ensuring that all Arkansas school children, especially those with eye and vision problems, have an

equal opportunity to access the learning opportunities available through a public school education; that the commission should be made permanent so that it can continue to serve this critical function for Arkansas school children and public school system; and that this act is immediately necessary because any delay in the effective date of this act would work irreparable harm on the ability of the commission to carry out its responsibilities in service to Arkansas’s public school system. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

## 6-18-1801. Intent.

(a) The General Assembly recognizes:

(1) The importance of adequate eye and vision care for school-age children as an important component to maximizing their educational opportunities and classroom performance; and

(2) The need for a study to be conducted to evaluate eye and vision care in school-age children and to develop a strategic statewide plan regarding the needs and solutions of eye and vision problems of school-age children.

(b) Therefore, the purposes of this act are to create a commission to conduct such a study and to make findings and recommendations to the General Assembly and the Governor.

**History.** Acts 2003, No. 755, § 1.

### **6-18-1802. Arkansas Commission on Eye and Vision Care of School-Age Children.**

(a)(1) There is established the Arkansas Commission on Eye and Vision Care of School-Age Children to be composed of seventeen (17) members.

(2) The following members shall be appointed by the Governor:

(A) Four (4) optometrists;

(B) Two (2) ophthalmologists;

(C) One (1) pediatrician;

(D) One (1) school nurse who is currently working in a public elementary school in this state;

(E) One (1) person currently working as a principal in a public elementary school in this state; and

(F) One (1) person currently working as a classroom teacher in a public elementary school in this state.

(3) The following members shall be appointed by the Speaker of the House of Representatives:

(A) One (1) family practice physician; and

(B) One (1) principal of a public elementary school.

(4) The following members shall be appointed by the President Pro Tempore of the Senate:

(A) One (1) family practice physician; and

(B) One (1) teacher in a public elementary school.

(5) The chairperson of the House Committee on Public Health, Welfare, and Labor shall appoint one (1) member who has a child in a public school in this state.

(6) The chairperson of the Senate Committee on Public Health, Welfare, and Labor shall appoint one (1) member who has a child in a public school in this state.

(7) The optometrist serving on the State Board of Health shall also be a member of the board and shall serve as a liaison to the Department of Health.

(b)(1) The Governor shall designate one (1) of the optometrist appointees to serve as chairperson of the commission.

(2) The members of the commission shall select from their membership a vice chairperson, a secretary, and a treasurer.

(c) The first meeting shall be held within thirty (30) days of the appointment of the members by the Governor, and shall be called by the chairperson.

(d)(1) A majority of the membership of the commission shall constitute a quorum.

(2) A majority vote of those members present shall be required for any action of the commission.

(e) Vacancies shall be filled for the unexpired portion of the term in the same manner as is provided in this section for initial appointments.

(f) To the extent that moneys are made available for that purpose, the members of the commission may receive expense reimbursement in accordance with Arkansas Code § 25-16-902.

**History.** Acts 2003, No. 755, § 2.

### **6-18-1803. Duties.**

(a) The Arkansas Commission on Eye and Vision Care of School-Age Children shall:

(1) Study the eye and vision needs of the school-age children of Arkansas;

(2) Study and evaluate vision screening programs in the schools, and their effectiveness;

(3) Study and evaluate whether children are receiving adequate eye and vision care, and correction of vision problems;

(4) Study the effects of inadequate vision on the performance of children in the classroom; and

(5) Continue to develop a strategic statewide plan to ensure adequate eye and vision care of school-age children.

(b) The commission and the Department of Education shall report their findings and updates to the Governor, the Legislative Council, and the House and Senate Interim Committees on Public Health, Welfare, and Labor two (2) times per year.

(c)(1) The commission may accept any and all donations, grants of money, gifts, appropriations, instruments, equipment, supplies, materials, and services, conditional or otherwise, from private sources, from municipal and county governments, from the state, and from the federal government. The commission may use any of its resources to further the commission's purposes and functions.

(2)(A) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the "School-Age Children Eye and Vision Care Fund".

(B)(i) All moneys collected under this section shall be deposited into the State Treasury to the credit of the fund as special revenues.

(ii) The fund shall also consist of any other revenues authorized by law.

(iii) Within thirty (30) days after the effective date of this subchapter, the Arkansas Commission on Eye and Vision Care of School Age Children shall transfer all funds currently held to the School-Age Children Eye and Vision Care Fund.

(C) The fund shall be used by the commission for the purpose of carrying out its responsibilities under this section.



(D) Any money not used by the commission within a fiscal year to carry out its responsibilities under this section shall be carried forward into the next fiscal year.

(d) The commission shall develop criteria for the distribution of commission resources to individuals and school districts in need of financial or other assistance necessary to satisfy the requirements of Arkansas Code §§ 6-18-1501 through 6-18-1506.

(e) In conjunction with the Department of Education, the commission shall develop criteria for passage or failure of a vision screening and criteria for referral for a comprehensive eye examination. The Department of Education shall adopt the criteria as rules promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) In conjunction with the Department of Education, the commission shall develop standardized forms to be used with regard to conducting and reporting the results of eye and vision screenings.

(g) The commission and the Department of Education shall evaluate and approve the vision screening instruments, equipment, and other testing items that are used to conduct the eye and vision screenings.

(h) The commission shall conduct a pilot study to evaluate the pre- and post-performance test scores of school children who have been screened and referred for vision problems. The study shall encompass rural, urban, and empowerment-zone school systems.

**History.** Acts 2003, No. 755, § 3; 2005, No. 1438, § 2; 2007, No. 138, § 1.

## **6-18-1804. Funding.**

(a)(1) The Arkansas Commission on Eye and Vision Care of School-Age Children's funding shall be from grants, donations, and any other funds that may be made available through appropriations by the General Assembly.

(2) Moneys received by the commission shall be used solely for the support of the functions of the commission.

(b)(1) Grants and donations received by the commission shall be cash funds and shall be administered by the Arkansas Department of Health but shall be subject to appropriation by the General Assembly.

(2) Any moneys received from grantors and donors that are not expended by the commission shall be returned to the grantors and donors in proportion that each bears to the total of all grants and donations received by the commission.

**History.** Acts 2003, No. 755, § 4.

## CHAPTER 19

### TRANSPORTATION

**SECTION.**

- 6-19-101. Regulations and standards generally.  
6-19-102. Authority to transport students — Vehicles and operators.  
6-19-105. [Repealed.]  
6-19-108. Bus drivers — Certification.  
6-19-110. Bus drivers — Loading and discharging pupils.  
6-19-115. Bus permit numbers.

**SECTION.**

- 6-19-123. [Repealed.]  
6-19-124. Mobile Learning Technology Pilot Program.  
6-19-125. Safety equipment grant pilot program.  
6-19-126. Notice on school buses.  
6-19-127. Parental monitors on school buses.

#### 6-19-101. Regulations and standards generally.

The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules and standards governing the school transportation program in school districts that promote and provide a safe, efficient, and economical system of pupil transportation.

**History.** Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; A.S.A. 1947, § 80-1810; Acts 2009, No. 1473, § 4.

**Amendments.** The 2009 amendment rewrote the section.

#### 6-19-102. Authority to transport students — Vehicles and operators.

(a) The board of directors of each school district in the state is authorized to purchase vehicles and otherwise provide means for transporting pupils to and from school, when necessary.

(b) To this end it may hire or purchase such school buses or other vehicles and hire persons to operate them, or make such other arrangements as it may deem best, affording safe and convenient transportation to the pupils, and the board of directors may pay for all such property or services out of the funds of the district.

(c) Any contract with any member of the school district board of directors for the transportation of children or to drive a bus shall be null and void.

(d) A bus or other vehicle used in transporting pupils in one (1) district shall not be used to transport pupils in another district without the consent of the Department of Education.

(e) The buses shall be of such specifications as may be prescribed by uniform rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

**History.** Acts 1931, No. 169, § 102; Pope's Dig., § 11545; A.S.A. 1947, § 80-1801; Acts 1999, No. 1078, § 75; 2009, No. 1473, § 5.

**Amendments.** The 2009 amendment rewrote (e).

**6-19-105. [Repealed.]**

**Publisher's Notes.** This section, concerning bus drivers — liability, was repealed by Acts 2011, No. 981, § 10, after having been repealed by implication upon the enactment of §§ 21-9-301, 21-9-303,

and 6-17-1113, as stated in *Doe v. Baum*, 348 Ark. 259 (2002). The section was derived from Acts 1943, No. 156, § 2; A.S.A. 1947, § 80-1811.

**6-19-108. Bus drivers — Certification.**

(a)(1) An applicant seeking employment as a driver or an operator of a school bus, either privately or publicly owned, is required to take and pass a series of tests as prescribed by the Department of Arkansas State Police under § 27-23-108 and the Division of Public School Academic Facilities and Transportation to determine the physical fitness and driving ability to serve as a school bus driver.

(2) The tests shall include:

(A) A physical examination given by a licensed physician or advanced practice nurse for school bus drivers, as required by the division;

(B) Other requirements as may be prescribed by rules issued jointly by the department and the division for qualifications and fitness of school bus drivers; and

(C) A successfully completed standard bus driver training and preservice behind-the-wheel training program as prescribed by the division.

(b) Upon successful completion and documentation of training listed in subdivision (a)(2)(C) of this section, a certificate, valid for one (1) year, shall be issued by the division.

(c)(1) A school bus driver shall not be employed as an operator of a school bus to transport children to and from school or school-sponsored activities unless he or she has satisfactorily completed the in-service training required in subsection (d) of this section and possesses a current valid certificate therefor.

(2) The certificate shall be required in addition to a commercial driver's license and any additional qualifications required by the school district board of directors.

(d) A school bus driver who seeks a renewal of his or her bus driver certificate shall provide proof that he or she has satisfactorily:

(1) Passed a physical examination given by a licensed physician or advanced practice nurse within the previous two (2) years; and

(2) Completed in-service training for school bus drivers as prescribed by the division.

(e) A school district board of directors may provide a substitute driver to operate a school bus on a temporary basis without a certificate until the next regularly scheduled school bus driver's examination is held in the locality if:

(1) A qualified school bus driver is not available to operate a school bus due to death, resignation, disability, illness, or other cause; and



(2) The school district board of directors is not able to obtain a qualified bus driver with a certificate.

(f) Extracurricular trips shall be made by certified drivers only.

(g) A person who violates the provisions of this section is guilty of a Class A misdemeanor.

**History.** Acts 1963, No. 191, §§ 1-4, 6; 1965, No. 449, § 1; 1985, No. 757, §§ 3, 4; A.S.A. 1947, §§ 80-1821 — 80-1825; Acts 2005, No. 1327, §§ 4, 5; 2005, No. 1994, § 196; 2009, No. 1473, § 6.

**Amendments.** The 2009 amendment rewrote the section.

### **6-19-110. Bus drivers — Loading and discharging pupils.**

(a) As used in this section:

(1) “Motor vehicle” means all vehicles, all movable engines, or machines that are operated or propelled by motor vehicle fuel and that are operated and used for travel on public roads and highways; and

(2)(A) “School bus” means a motor vehicle designed to carry more than ten (10) passengers:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(ii) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.

(B) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(ii) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b) The purpose of this section is to improve the safety of children being loaded and unloaded as passengers on a school bus.

(c)(1) The superintendent and director of transportation of each school district, in consultation with the appropriate law enforcement agency and appropriate prosecuting authority, shall develop a school bus safety plan designed to ensure the safety of children being loaded onto or unloaded from school buses.

(2) The school bus safety plan shall include provisions to:

(A) Reduce the occurrence of a motor vehicle passing a stopped school bus that is loading or unloading students; and

(B) Improve the likelihood that the operator of a motor vehicle who violates § 27-51-1004 or § 27-51-1005 will be prosecuted by assisting bus drivers to learn methods of identifying characteristics of a motor vehicle and its operator who violate § 27-51-1004 or § 27-51-1005 to law enforcement officers.

(d)(1) The driver of a school bus shall load and unload the passengers of the bus at the extreme right side of the paved or improved portion of the road or the highway and at the right curbing when the curbing is maintained on the road or the highway.

(2) A driver of a school bus who fails to carry out the provisions of this subsection is guilty of a Class C misdemeanor.

(e)(1) A driver of a school bus who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 shall report the license plate number, issuing state if different than Arkansas, and a brief description of the vehicle to the superintendent within two (2) hours after the end of the driver's shift for that period of the day.

(2) Within forty-eight (48) hours of the observation, the superintendent shall provide the information to the appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident.

(3) The appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident who is provided a report under this section shall provide written notice to the superintendent regarding the outcome of the report.

(4) The superintendent shall provide information regarding the outcome of the report to the driver of the school bus who initiated the report.

(f) A person who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 may report the incident to the appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident.

**History.** Acts 1931, No. 132, §§ 1, 3, 4; Pope's Dig., §§ 3623, 3625, 3626; A.S.A. 1947, §§ 80-1813 — 80-1815; Acts 2005, No. 1825, § 1; 2005, No. 1994, § 242; 2007, No. 718, §§ 1, 2; 2007, No. 999, § 1; 2009, No. 1206, § 1; 2011, No. 981, § 11.

**Amendments.** The 2007 amendment by No. 718 rewrote (c)(1); substituted "observation, the superintendent shall provide the information to the local prosecuting attorney" for "observation deliver the completed form to the superintendent of the school district or his or her designee, who shall promptly provide the report to a local prosecuting attorney" in (c)(2); and added (e) and (f).

The 2007 amendment by No. 999 rewrote (b)(2); substituted "school bus driver" for "driver of a school bus" in (c); substituted "is guilty" for "shall be guilty" in (d); and made stylistic changes.

The 2009 amendment deleted former (a) and (d), inserted present (b) through (d), and redesignated the remaining subsections accordingly; substituted "appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident" for "local prosecuting attorney" or similar language in (e)(2), (e)(3), and (f); and made related and minor stylistic changes.

The 2011 amendment rewrote (c)(2)(B).

## 6-19-115. Bus permit numbers.

(a)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall establish a system of permit numbers to be used in identifying school buses owned or operated by or in behalf of school districts in this state.

(2) The system of permit numbers shall assign an identifying prefix number to each school district with provisions for consecutive numbers thereafter for buses of the district.

(b) Each school district in this state shall be notified of the permit number assigned the school district under this section and shall be furnished instructions for identifying all school buses owned or operated by or in behalf of the school district.

(c)(1) The permit number assigned each school district and the school district name shall be painted in letters not less than six inches (6") high on both sides and on the rear of all school buses owned by the district or used in behalf of the district.

(2) Permit numbers shall be painted on the buses in compliance with the rules promulgated by the commission.

(d) No school district in this state shall operate a school bus nor shall any school bus be operated for or in behalf of a school district unless the school district name and permit number has been painted on the bus in compliance with this section.

(e) A school district failing to comply with this section shall be penalized by the withholding of all transportation aid due the district from the state until the school district is in compliance with this section.

**History.** Acts 1961, No. 243, §§ 1-3; A.S.A. 1947, §§ 80-1818 — 80-1820; Acts 2009, No. 1473, § 7.

**Amendments.** The 2009 amendment rewrote the section.

### 6-19-123. [Repealed.]

**Publisher's Notes.** This section, concerning a transportation efficiency study, was repealed by Acts 2011, No. 1006, § 1.

The section was derived from Acts 2007, No. 1604, § 1.

### 6-19-124. Mobile Learning Technology Pilot Program.

(a) The General Assembly finds that:

(1) In rural areas of the state, public school students may spend hours of unproductive time on the school bus being transported to and from school;

(2) The state has a critical need to increase its workforce in the fields of science, technology, engineering, and mathematics for national and global economic competitiveness;

(3) Long, unproductive bus commutes are transformed into productive learning environments in the fields of mathematics and science through the use of mobile learning technology and the accompanying personalized learning experiences; and

(4) A statewide pilot program using mobile learning technology will develop untapped talent for the science, technology, engineering, and mathematics workforce.

(b)(1) The Mobile Learning Technology Pilot Program is created as a three-year pilot program to provide the mobile learning technology



under this section to a total of up to twenty-five (25) public school districts.

(2) Each congressional district in the state may have up to five (5) public school districts participating in the pilot program.

(c) The Department of Education shall begin the pilot program with the 2010-2011 school year and continue the pilot program through the end of the 2012-2013 school year.

(d)(1) Each public school district participating in the pilot program shall equip up to three (3) school buses with wireless Internet service and purchase or obtain the following technology:

(A) Fifteen (15) laptop computers;

(B) Forty (40) portable devices for storing video files;

(C) Two (2) sets of media screens; and

(D) Math and science software for use with the laptop computers and video portable devices for storing video files.

(2) The public school district may use foundation funding provided for technology or other funding sources for purchases made under this subsection.

(e) The pilot program also shall provide:

(1) For each public school district participating in the pilot program, a community classroom teacher who is available for student questions and meets with pilot students weekly in a community classroom environment;

(2) Partnerships with institutions of higher education, the school district community, and corporate entities that will expose the pilot students to careers and professionals in the fields of science, technology, engineering, and mathematics;

(3) Measurements of specified outcomes, including without limitation:

(A) The number and types of courses completed by pilot students;

(B) The number and types of Advanced Placement courses completed by the pilot students and the Advanced Placement examination scores; and

(C) The results of Arkansas benchmark assessments for the pilot students;

(4) A comparison of the state benchmark assessments in pilot and nonpilot public school districts; and

(5) A survey of the pilot students' interests in careers and courses of study in science, technology, engineering, and mathematics fields.

(f) As funds are appropriated and available, the department may hire consultants or experts with the knowledge of and appropriate experience with mobile learning technology for use on school buses as well as other qualifications established by the department.

(g)(1) At the end of the three-year period, the department or its consultants or experts shall prepare an evaluation of the pilot program and report on the evaluation to the House Committee on Education and to the Senate Committee on Education.

(2) Consultants or experts hired by the department shall be available to answer questions or provide information as requested by the House Committee on Education and the Senate Committee on Education.

**History.** Acts 2009, No. 827, § 1.

### **6-19-125. Safety equipment grant pilot program.**

(a) As used in this section:

(1) “Electronic warning device” means a nine-inch by twenty-four-inch (9” x 24”) electronic driver alert sign that uses a light-emitting diode (LED) screen and is to be mounted between the two (2) windows of the rear emergency exit door on a Type C bus or immediately below the rear emergency exit window on a Type D bus;

(2) “High incident route” means a school bus route that has been identified by the school district or the Division of Public School Academic Facilities and Transportation as having a history of repeated and verified incidents of operators of motor vehicles illegally passing the school bus during the loading or unloading of passengers on the school bus route in violation of § 27-51-1004; and

(3)(A) “Video recording device” means a device that includes at least one (1) video camera and a data recording device that is installed on a school bus to capture video or digital images of a violation of § 27-51-1004.

(B) A video recording device that is issued under this section shall have specifications and features that allow it to capture video or digital images of at least two (2) of the following:

- (i) The motor vehicle;
- (ii) The operator of the motor vehicle; or
- (iii) The license plate on the motor vehicle.

(b) The division shall create a school bus safety equipment grant pilot program, subject to the appropriation and availability of funding.

(c) The goal of the school bus safety equipment grant pilot program is to provide school districts with video recording devices or other electronic warning devices for school buses that travel on high incident routes.

(d)(1) A school district may apply to the division for a grant for a video recording device or electronic warning device for the installation and use on the school district’s school buses.

(2) The division shall award a grant of equipment to a school district to improve the safety of school bus transportation to the school district applicants that are most in need as determined by the following factors:

- (A) The number of high incident routes;
- (B) The number of school bus routes;
- (C) The type of roads;
- (D) The number of students transported on school buses; and
- (E) The size of the school district.

(e) The grant of equipment shall be the video recording device or electronic warning device purchased by the division and does not include installation costs.

(f) The school district shall certify to the division within forty-five (45) days after receiving the equipment that the equipment was installed according to the division's specifications on a school bus that travels on a high incident route.

(g) The division may promulgate rules for the implementation and administration of this section.

**History.** Acts 2009, No. 1207, § 1.

### **6-19-126. Notice on school buses.**

(a) If a school bus is not equipped with an electronic warning device as defined under § 6-19-125, a school district may have printed or otherwise displayed on the exterior of a school bus between the two (2) windows of the rear emergency exit door on a Type C bus or immediately below the rear emergency exit window on a Type D bus the following notification:

"ARKANSAS LAW: STOP WHEN RED LIGHTS ARE FLASHING".

(b) A school bus that is purchased on or after January 1, 2011, shall be equipped with either:

(1) A notice printed or otherwise displayed as provided under subsection (a) of this section; or

(2) An electronic warning device as defined under § 6-19-125.

**History.** Acts 2009, No. 1207, § 2; for "IT IS A VIOLATION OF ARKANSAS LAW TO PASS A SCHOOL BUS FROM

**Amendments.** The 2011 amendment substituted "ARKANSAS LAW: STOP WHEN RED LIGHTS ARE FLASHING" ANY DIRECTION WHEN IT IS STOPPED TO LOAD OR UNLOAD A CHILD" in (a).

### **6-19-127. Parental monitors on school buses.**

(a) The purpose of this section is to protect children from abusive behavior while riding a school bus.

(b) A school district board of directors may create and implement a program to authorize a parent of a child enrolled in the school district to act as a monitor in a school bus.

(c) The Commission for Arkansas Public School Academic Facilities and Transportation shall adopt rules to implement this section.

(d) A parental monitor under this section is a qualified volunteer under the Arkansas Volunteer Immunity Act, § 16-6-101 et seq.

**History.** Acts 2011, No. 984, § 1.

## **CHAPTER 20**

## **FINANCES**

### **SUBCHAPTER.**

#### **4. DISTRICT FINANCES.**

#### **5. FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN.**



## SUBCHAPTER

6. LOCAL SCHOOL DISTRICT ISOLATED FUNDING.
8. REVOLVING LOAN PROGRAM — GENERAL PROVISIONS.
11. REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT. [REPEALED.]
12. DISTRICT BONDS.
14. STATE AID FOR CONSTRUCTION.
19. ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM.
22. ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004.
23. PUBLIC SCHOOL FUNDING ACT OF 2003.
25. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT.

**A.C.R.C. Notes.** Acts 2011, No. 1074, § 22, provided: “(A) Amendment 79 of the Constitution of the State of Arkansas provides that school district millage must be equal for all classes of property and several school districts now have unequalized millage on real and personal property. The Arkansas Department of Education and the Assessment Coordination Department are hereby authorized to identify those school districts which are affected by the Amendment 79 provision to equalize millage and calculate the loss in revenues due to the equalization of the millage. Loss in revenue shall be defined as the difference between the collectable taxes calculated

by multiplying the current assessment times the pre-equalized mills and the current assessment times post-equalized mills.

“(B) School districts shall receive funding authorized herein equal to the loss in revenues as calculated by the Arkansas Department of Education and the Assessment Coordination Department.

“(C) Funding received by school districts pursuant to this act shall be considered unrestricted revenues to those districts.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

## SUBCHAPTER 2 — MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY

## 6-20-212. Desegregation expenses.

**A.C.R.C. Notes.** Acts 2009, No. 1421, § 12, provided: “DESEGREGATION EXPENSES. (A) For the fiscal year ending June 30, and for each fiscal year thereafter, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the Department of Education for desegregation expenses under any ‘Desegregation Settlement Agreement’. Upon the receipt of such certification, the State Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the Department of Education Public School Fund Account there to be used exclusively for payment of or reimbursement for expenses incurred from the

Department of Education Public School Fund Account under any ‘Desegregation Settlement Agreement’.”

Acts 2010, No. 293, § 10, provided: “DESEGREGATION EXPENSES. (A) For the fiscal year ending June 30, and for each fiscal year thereafter, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the Department of Education for desegregation expenses under any ‘Desegregation Settlement Agreement’. Upon the receipt of such certification, the State Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the Department of Education Public

School Fund Account there to be used exclusively for payment of or reimbursement for expenses incurred from the Department of Education Public School Fund Account under any ‘Desegregation Settlement Agreement’.”

Acts 2011, No. 1075, § 10, provided: “DESEGREGATION EXPENSES. (A) For the fiscal year ending June 30, and for each fiscal year thereafter, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the Department

of Education for desegregation expenses under any ‘Desegregation Settlement Agreement’. Upon the receipt of such certification, the State Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the Department of Education Public School Fund Account there to be used exclusively for payment of or reimbursement for expenses incurred from the Department of Education Public School Fund Account under any ‘Desegregation Settlement Agreement’.”

6-20-224. Federal turnback funds.

**A.C.R.C. Notes.** Acts 2011, No. 1074, § 23, provided: “TURNBACK FUNDS. Any Federal Mineral Leasing Funds, Federal Forest Reserve Funds, Federal Flood Control Funds, or any similar turnback funds in the State Treasury for which the eligible county and/or school district can-

not be identified may be transferred to the Department of Education Public School Fund Account and used for any lawful school purpose..

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

SUBCHAPTER 4 — DISTRICT FINANCES

SECTION.

6-20-401. Definitions.

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

SECTION.

6-20-412. Nonrecurring salary payments.

6-20-415. Consultants.

6-20-416. Desegregation funding.

**Effective Dates.** Acts 2008 (1st Ex. Sess.), No. 2, § 3: Apr. 2, 2008. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state’s provision of school systems that are free from the vestiges of racial discrimination is a vital part of providing a general, suitable, and efficient school system; that children who receive a quality education grow into responsible adults who create positive effects on the culture and economy of this state; that without a diligent pursuit of unitary status by the three (3) Pulaski County school districts, there is no assurance that the school districts are free of the vestiges of racial discrimination; that the state has enacted legislation to assist the Pulaski County school districts in achieving unitary status in desegregation

litigation and provide assurance to the children in those districts that the promise of unitary status will be fulfilled within a reasonable amount of time; that under that legislation, the school districts filed their requests for a court order on unitary status, but the court’s docket will not permit a resolution by June 14, 2008, the stated deadline; and that this act is immediately necessary to ensure that the Pulaski County school districts diligently pursue unitary status before the end of 2008 and that the state’s provision of school systems that are free from the vestiges of racial discrimination. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the



Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 242, § 3, Feb. 26, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state’s provision of school systems that are free from the vestiges of racial discrimination is a vital part of providing a general, suitable, and efficient school system; that without a diligent pursuit of unitary status by the three (3) Pulaski County school districts, there is no assurance that the school districts are free of the vestiges of racial discrimination; that the state has enacted legislation to assist the Pulaski County school districts in achieving unitary status in desegregation litigation and provide assurance to the children in those districts that the promise of unitary status will be fulfilled within a reasonable amount of time; that under that legislation, the school districts filed their requests for a federal court order on unitary status, but the federal court system for hearings and appeals in the case did not permit a resolution by December 31, 2008, the stated deadline; and that this act is immediately necessary to ensure that the Pulaski County school districts diligently pursue unitary status before the end of 2009 in order to ensure that the school systems are free from the vestiges of racial discrimination. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution

changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 701, § 6: Mar. 24, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state has paid the Pulaski County School Districts over one billion dollars as required by the Pulaski County Desegregation Case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866; that the Attorney General and the Department of Education are examining the finances of the Pulaski County school districts to determine how those funds are utilized by the districts; that the accounting required by this act is an essential part of reaching a fiscally responsible end to the case; that the General Assembly’s support for the efforts of the Attorney General and the department should be provided immediately because the continued funding under the existing settlement agreement without proper accounting and State oversight is detrimental to the fiscal integrity of the three school districts and the State, and to the education of the students in the school districts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”



**6-20-401. Definitions.**

As used in this subchapter:

(1) "Current indebtedness" means a debt obligation incurred by a school district for the purpose of paying maintenance or general operation expenses for the fiscal year in which the debt is incurred or for a purpose for which a postdated warrant, installment contract, or lease-purchase agreement may be issued;

(2) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any new building design or any existing building or facility owned or operated by a school district or any equipment, fixture, or furnishing to be added to or used in any building or facility that is designed to reduce energy consumption or operating costs and may include, without limitation, one (1) or more of the following:

(A) Insulation of the building structure or systems within the building;

(B) Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(C) Automated or computerized energy control systems;

(D) Heating, ventilating, or air conditioning system modifications or replacements;

(E) Replacements or modifications of lighting fixtures to increase the energy efficiency of the lighting system;

(F) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements even in lieu of an increase in energy usage;

(G) Any additional building infrastructure improvements, cost savings, and life safety or other safety or conservation measures that provide long-term operating cost reductions and are in compliance with state and local codes; and

(H) Building operation programs that reduce operating costs;

(3) "Nonrevenue receipts of a school district" means those receipts which either incur an obligation which must be met at some future date or which change the form of an asset from property to cash. Specifically, they consist of the proceeds of a bond sale, payment of losses on an insurance policy, the receipts from the sale of property, etc.; and

(4) "Revenue receipts of a school district" means those receipts that do not result in increasing school indebtedness or in depleting school property. Specifically, revenue receipts of a school district for any fiscal year shall consist of the following funds:

(A) Net cash balance on hand at the beginning of the school fiscal year, July 1;

(B) The remaining net proceeds of local taxes collected in the calendar year in which the school fiscal year started;

(C)(i) For the 2011-2012 school year, the proceeds of the local taxes collected by June 30 in the succeeding calendar year. If the amount collected is less than thirty-six percent (36%) of the proceeds of the local taxes that are not pledged to secure bonded indebtedness, the amount necessary to equal thirty-six percent (36%) may be accrued.

(ii) The percentage under subdivision (4)(C)(i) of this section shall be reduced by four percent (4%) each subsequent school year until it is zero (0), as follows:

- (a) Thirty-two percent (32%) in the 2012-2013 school year;
- (b) Twenty-eight percent (28%) in the 2013-2014 school year;
- (c) Twenty-four percent (24%) in the 2014-2015 school year;
- (d) Twenty percent (20%) in the 2015-2016 school year;
- (e) Sixteen percent (16%) in the 2016-2017 school year;
- (f) Twelve percent (12%) in the 2017-2018 school year;
- (g) Eight percent (8%) in the 2018-2019 school year;
- (h) Four percent (4%) in the 2019-2020 school year; and
- (i) Zero percent (0%) in the 2020-2021 school year.

(iii) Declining balances attributed solely to a school district's compliance with the requirements of subdivision (4)(C)(ii) of this section shall not be considered an indicator of fiscal distress; and

(D) The net proceeds of all other funds accrued or placed to the credit of the district during the fiscal year from regular revenue sources, including without limitation state and federal funding.

**History.** Acts 1939, No. 194, § 2; 1949, No. 150, § 1; 1958 (2nd Ex. Sess.), No. 3, § 1; A.S.A. 1947, § 80-1002; Acts 1989, No. 105, § 1; 1993, No. 314, § 1; 1997, No. 962, § 1; 1997, No. 1307, § 10; 2005, No. 2156, § 1; 2011, No. 871, § 1.

**A.C.R.C. Notes.** A portion of subdivi-

sion (4)(C)(ii)(i) was inadvertently omitted from the final version of the act. Section 6-20-401 is set out above to include the omitted language.

**Amendments.** The 2011 amendment rewrote (4)(B); added (4)(C); and redesignated part of former (4)(B) as (4)(D).

## **6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.**

(a)(1)(A) The amount of obligations incurred by a school district for any school fiscal year shall not be in excess of the revenue receipts of the district for that year except as provided in this section and in § 6-20-801 et seq.

(B) A school district or public charter school may enter into public-private partnerships whereby the school district or public charter school enters into a lease-purchase agreement for the acquisition or construction of a school building or related facilities built or acquired by the private entities with facilities bonds exempt from federal taxes under 26 U.S.C. § 142(a)(13), as it existed on January 1, 2003, or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005.

(2) A school district may issue postdated warrants or enter into installment contracts or short-term lease-purchase agreements for the following purposes:

(A) Purchase of school buses;

(B) Payment of premiums of insurance policies on school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;

(C)(i) Purchase of equipment.

(ii) However, purchase of equipment does not include separate equipment service agreements, equipment repair contracts, or extended warranties for the equipment;

(D) Installation or purchase, or both, of energy conservation measures in school facilities;

(E) Construction, repair, and renovation of school facilities;

(F) Purchase of school sites;

(G) Payment on loans secured for settlement resulting from litigation against a school district;

(H) Payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes; and

(I) The professional development and training of teachers or other programs authorized under the federally recognized Qualified Zone Academy Bond Program codified at 26 U.S.C. § 1397E.

(3) School districts may issue postdated warrants or enter into installment contracts or lease-purchase agreements in an amount sufficient to accomplish the purposes listed in subdivision (a)(2) of this section and to pay the costs of issuing the postdated warrants or entering into the installment contracts or lease purchase-agreements.

(b)(1)(A) Except as provided in subdivisions (b)(1)(B) and (C) of this section, a postdated warrant, a short-term lease-purchase agreement, or an installment contract must be paid within ten (10) years of the date of issuance of the postdated warrant or the execution of the written lease-purchase agreement or installment contract, as the case may be.

(B)(i) A school district's acquisition of energy conservation measures under § 6-20-405 may be financed by the school district over a twenty-year period after the execution by the school district of the postdated warrant, lease-purchase agreement, or installment contract.

(ii) However, no financing shall exceed the reasonably expected useful life of the energy facilities or equipment subject to the energy savings contract in favor of either a qualified provider or a third-party financing company designated by a qualified provider.

(C) A long-term lease-purchase agreement allowed under subdivision (a)(1)(B) of this section:

(i) Shall be paid within thirty (30) years of the date of the execution of the written lease-purchase agreement; and

(ii)(a) May contain a provision allowing the school district an option to terminate the agreement at the end of any fiscal year for the school district.



(b)(1) Any long-term lease containing an option to terminate at the end of a fiscal year shall not be included in the calculation of the debt ratio applicable to that school district.

(2) Any long-term lease allowed under subdivision (a)(1)(B) of this section that does not contain an option to terminate at the end of the fiscal year shall be included in the calculation of the debt ratio applicable to that school district.

(iii) All school buildings or related facilities shall comply with the requirements of the Arkansas School Facility Manual in effect at the time the lease became effective.

(D)(i) A school district may sublease a portion of a school building or facility whenever that building or facility is not being used for educational purposes.

(ii) Rent received from a sublease:

(a) Shall be deposited into the school district's general fund; and

(b) May be used for any operational or capital purpose.

(E) Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided or approved by the State Board of Education with the treasurer of the district and the state board.

(2)(A) Each lease-purchase agreement and installment contract must have attached thereto a schedule of the rent or installments to be paid, showing:

(i) The payee and any assignee;

(ii) The school district;

(iii) The purpose of the purchase or payment;

(iv) The due date of each installment; and

(v) The amount of principal and interest of each installment and the fiscal year in which the installment is to be paid.

(B) A copy of each contract and of the schedule of payments shall be filed with the treasurer of the district and with the state board, and when so filed, each installment may be paid as it becomes due.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, the unpaid principal amount of postdated warrants issued and installment contracts and lease-purchase agreements entered into shall be a part of the total debt of the district as limited by § 6-20-803 with the district fiscal officer and his or her surety liable for exceeding the limitations.

(B) The unpaid principal amount of postdated warrants, lease-purchase agreements, or installment contracts entered into in connection with a guaranteed energy savings contract under § 6-20-405 shall not be a part of the total debt of the district.

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Department of Education.

(5) Payments by a school district pursuant to postdated warrants, installment contracts, and lease-purchase agreements shall be charged

against the budget of the school fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal year.

(6) All warrants issued or installment contracts and lease-purchase agreements entered into in excess of the revenue of a school district for a school fiscal year are null and void except as provided in this section.

(7) It shall be the duty of the school fiscal officer to indicate on each school district warrant or on the schedule of payments attached to a written installment contract or lease-purchase agreement the school year's revenues against which the obligation was incurred and is to be paid. It shall be unlawful for the school fiscal officer to issue a school district warrant or to enter into an installment contract or lease-purchase agreement the installments for which are to be charged against the revenues of a school year if the obligation thereof was incurred in a different school year except as otherwise authorized in this section.

(8) The school fiscal officer may comply with the provisions of this section by indicating on each warrant or schedule of payments attached to any installment contract or lease-purchase agreement the school year's revenues against which each payment is to be charged, or he or she may use a warrant of a distinct color for a particular year and shall advise the county treasurer, if the county treasurer serves as the school district treasurer, in writing of the color of warrant being used for credit against the revenues of a particular year.

(9) The county treasurer, or the district treasurer if the school district has its own treasurer, and his or her surety shall be jointly liable with the school fiscal officer and his or her surety for the payment of any school warrant or payment on a contract or agreement that is charged against the revenues of a school year if the amount thereof is in excess of the revenue receipts of the district for the school year against which the school fiscal officer has indicated the payment is to be charged or if he or she approved the payment with knowledge that the payment is being charged by the school fiscal officer against the revenues of another school year in violation of this section.

(10) It is the purpose and intent of this section to place primary responsibility on the school fiscal officer and his or her surety for compliance with the provisions of this section and to make the county treasurer, or district treasurer if the school district has its own treasurer, and his or her surety liable for any payment on a warrant, contract, or agreement drawn in violation of this section when the amount of the payment exceeds the revenue receipts of the district for the school year against which it is charged as indicated on the warrant, contract, or agreement or when the county treasurer approves a payment with the knowledge that it is in payment of an obligation of a different school year as prohibited in this section.

(c)(1) A school district may refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts and pay the usual, customary, and reasonable costs of the refinancing by issuing one (1) postdated warrant, lease-purchase agreement, or installment contract if the refinancing:



(A)(i) Results in a net savings to the school district.

(ii) A net savings results if the outstanding principal balance plus the remaining interest payments and any early call penalties is greater than the new principal balance plus the total interest to be paid and the cost of the refinancing of the outstanding postdated warrant, lease-purchase agreement, or installment contract;

(B) Does not extend the term of the postdated warrant, lease-purchase agreement, or installment contract more than five (5) years beyond the term of the existing individual outstanding postdated warrants, lease-purchase agreements, or installment contracts, and if the original term together with any extension does not exceed ten (10) years;

(C) Does not increase the outstanding debt owed by the school district under the existing outstanding postdated warrants, lease-purchase agreements, or installment contracts except to the extent necessary to cover usual, customary, and reasonable costs of issuance of the new refunding postdated warrant, lease-purchase agreement, or installment contract and except to the extent necessary for new financing as authorized by subsection (a) of this section;

(D)(i) Except as allowed under subdivision (c)(1)(D)(ii) of this section, the outstanding postdated warrants, lease-purchase agreements, or installment contracts have not been previously refinanced.

(ii) Any outstanding postdated warrants, lease-purchase agreements, or installment contracts may be refinanced more than one (1) time if:

(a) The school district realizes a savings from the refinancing;

(b) The term of the debt obligation is not extended; and

(c) The refinancing does not increase the total debt obligation of the school district; and

(E) The school district obtains the prior written approval of the department to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

(2) The state board may promulgate rules and regulations as necessary to implement subdivision (c)(1) of this section.

(d)(1) A school district may incur current indebtedness and issue its notes or other evidence thereof as provided in this subsection.

(2) All current indebtedness incurred in a fiscal year shall mature on or before December 31 of the calendar year in which the fiscal year ends.

(3) Current indebtedness is not included in the term "bonded indebtedness" and shall not be considered a part of the total debt of a district as limited by § 6-20-803.

(4) Current indebtedness shall be payable from and may be secured by a pledge of all or any part of the revenue receipts of the issuing district for the fiscal year in which the debt is incurred.

(5) The amount of obligations incurred by a school district for any school fiscal year, including current indebtedness, shall not be in excess of the revenue receipts of the district for that year except as expressly authorized in subsection (a) of this section.



(e)(1)(A)(i) Except as provided in subdivision (e)(1)(B) of this section, as additional security for the payment of any postdated warrant, installment contract, lease-purchase agreement, or current indebtedness of a school district authorized under subdivision (a)(2) of this section, the district may authorize the state board to cure any delinquencies of the school district by withholding state foundation funding due the district.

(ii) Authorization shall be given by the school district at the time that the postdated warrant, installment contract, or lease-purchase agreement is issued or the current indebtedness authorized under subdivision (a)(2) of this section is incurred and shall be given in the manner and in the form that the state board shall prescribe.

(B) A school district may not authorize the state board to cure and the state board shall not cure any delinquencies of the district in contracts or extended warranties on equipment by withholding state foundation funding due the district.

(2)(A) If a school district has authorized withholding of its state foundation funding under subdivision (e)(1)(A) of this section and the school district has failed to pay the payee or paying agent amounts due under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section, the payee or paying agent shall be entitled to payment from the school district's withheld state foundation funding if the payee or paying agent:

(i) Obtains a final judgment establishing the payee's or paying agent's right to payment from the school district under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section; and

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of Education and the superintendent of the school district.

(B)(i) Except as provided in subdivision (e)(1)(B) of this section, unless the superintendent of the school district certifies in writing to the commissioner that payment has been made by the district to the payee or the paying agent and the judgment has been paid in full, the commissioner shall withhold from the next distribution to the school district of state foundation funding and remit to the payee or paying agent an amount sufficient to pay the judgment amount.

(ii) If the amount withheld under subdivision (e)(2)(B)(i) of this section is insufficient to pay the judgment in full, the commissioner shall continue withholding subsequent distributions of state foundation funding to the school district until the superintendent certifies to the commissioner that the judgment is paid in full.

(3) In the event that the amount next due to be distributed to the delinquent district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the payee or paying agent until the payment deficiency has been cured.

(4) If the commissioner is notified that a district is delinquent on two (2) or more obligations for which a district has authorized withholding of state aid to cure a delinquency, the commissioner shall make payment to payees or paying agents in the order of receipt of notices of the delinquencies.

(f) If the state board withholds state aid from a school district under subsection (e) of this section, the school district shall be classified as a school district in fiscal distress under § 6-20-1906.

(g) Any duties required of any officer of the state pursuant to subsection (e) of this section shall be only ministerial in nature and shall in no way transfer any liability of the debtor to the state or any agency or any officer thereof.

(h) The rate of interest on postdated warrants, installment contracts, lease-purchase agreements, and current indebtedness shall not exceed the maximum interest rate for school bonds as determined under § 6-20-1206.

**History.** Acts 1939, No. 194, § 3; 1949, No. 150, § 2; 1969, No. 76, § 1; 1977, No. 494, § 1; 1981, No. 550, § 1; 1983, No. 438, § 1; 1985, No. 223, § 1; A.S.A. 1947, § 80-1003; Acts 1989, No. 105, §§ 2, 3; 1991, No. 401, § 15; 1993, No. 314, § 2; 1995, No. 233, § 11; 1997, No. 962, §§ 2, 3; 1997, No. 1265, § 1; 1997, No. 1329, § 2; 2001, No. 1220, §§ 8-10; 2003, No. 840, § 1; 2003, No. 1754, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 58, §§ 1, 2; 2005, No. 1866, § 1; 2005, No. 2005, § 1; 2005, No.

2121, §§ 12, 23; 2005, No. 2156, § 2; 2005, No. 2177, § 1; 2006 (1st Ex. Sess.), No. 22, §§ 1-3; 2006 (1st Ex. Sess.), No. 23, §§ 1-3; 2007, No. 827, §§ 114, 115; 2009, No. 1469, § 9.

**Amendments.** The 2007 amendment, in (a)(1)(B), substituted “public charter school” for “charter school” in two places, inserted “built,” and made a stylistic change; and inserted “years” in (b)(1)(A).

The 2009 amendment rewrote (f).

## 6-20-412. Nonrecurring salary payments.

(a) A school district in this state may pay licensed personnel a nonrecurring salary payment from revenues not considered to be recurring sources of revenue.

(b) A nonrecurring salary payment under this section shall not increase the base salary of the recipient for purposes of calculation of future salary requirements.

(c) A nonrecurring salary payment under the provisions of this section shall be divided equally among licensed personnel employed by the school district at the time approved by the board of directors of the school district unless the board of directors and a majority of the licensed personnel agree to a different distribution.

(d) A payment to a targeted educator made in the form of a supplement as an addendum to a contract in fulfilling this section, and § 6-5-307(a) shall not be considered a nonrecurring salary payment under this section.

**History.** Acts 1989, No. 268, § 1; 2001, No. 1456, § 8; 2009, No. 376, § 38; 2011, No. 989, § 62.

**Amendments.** The 2009 amendment, in (e), made minor stylistic changes.

The 2011 amendment substituted “li-



censed" for "certified" in (a); deleted "teacher" preceding "recipient" in (b); in (c), substituted "licensed personnel" for "certified personnel," "time approved by the board of directors of the school district" for "time of payment," and "licensed

personnel" for "teachers"; deleted former (d) and redesignated former (e) as present (d); and deleted "and § 6-17-2101 et seq. [repealed]" following "5-307(a)" in present (d).

## 6-20-415. Consultants.

(a) The Department of Education in consultation with the Attorney General shall hire consultants on the following basis:

(1) The consultants shall be qualified as experts in public school district desegregation;

(2) The purposes for employing the consultants are to determine whether and in what respects any of the three (3) Pulaski County school districts:

(A)(i) Are unitary.

(ii) If a school district has been declared unitary or has been declared unitary in some respects, the consultants shall not examine the school district on those issues; and

(B) Have complied with their respective consent decrees; and

(3) The consultants shall understand and acknowledge in their work and research that their testimony in court may be required.

(b) The department shall not pay the consultant fees or expenses from moneys appropriated and available for the reimbursement of attorney's fees to the three (3) Pulaski County school districts under § 6-20-416.

(c)(1) The department and the Attorney General also may hire consultants with expertise in the fields of auditing and forensic accounting to provide oversight and management of the three (3) Pulaski County school districts' finances with an emphasis on desegregation funding.

(2) The consultants hired by the department and the Attorney General shall have full authority to examine any documents and software and shall be allowed full access to any persons necessary to discharge the consultants' duties as directed by the department and the Attorney General.

(3) In addition to the authority otherwise granted to the State Board of Education and the department by law, the department may require a school district to modify, update, or change the school district's financial oversight or management policies, procedures, or practices in response to the recommendations of the consultants.

(4) A school district that fails to comply with the requirements of the department under this subsection shall be identified by the department as being in fiscal distress and subject to the applicable enforcement provisions as provided by law.

**History.** Acts 2007, No. 395, § 2; 2009, No. 242, § 1; 2011, No. 701, § 1.

§ 29, provided: "PULASKI COUNTY DESEGREGATION CASE COSTS FUND TRANSFER — PUBLIC SCHOOL FUND.

**A.C.R.C. Notes.** Acts 2011, No. 1074,



The Department of Education shall retain and use any unexpended balance of funds transferred to the Department of Education Fund Account during the 2007-09 biennium for the purpose of providing funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts to comply with the provisions of Arkansas Code §6-20-415 and §6-20-416. These retained funds shall be used exclusively to provide funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415

and §6-20-416.

"No portion of these retained funds shall be expended by the Department of Education without certification by the Commissioner of the Department of Education to the Chief Fiscal Officer of the State and prior approval by the Chief Fiscal Officer of the State.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

**Amendments.** The 2009 amendment inserted (b); deleted (a)(2), and redesignated the remaining text accordingly.

The 2011 amendment added (c).

### **6-20-416. Desegregation funding.**

(a) The Department of Education and the Attorney General are authorized to seek proper federal court review and determination of the current unitary status of any school district in the case of Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866.

(b)(1) Upon July 31, 2007, the department and the Attorney General are authorized to seek modification of the current consent decree or enter into a new or an amended consent decree or settlement agreement under this section that allows the State of Arkansas to:

(A) Continue necessary and appropriate payments under a post-unitary agreement to the three (3) Pulaski County school districts for a limited and definite time period not to exceed seven (7) years and for a definite limited sum of payments;

(B) Ensure that the amount of funding provided under the post-unitary agreement is the total maximum obligation of the state and the school districts in the case;

(C) Ensure that the payments required pursuant to the post-unitary agreement are structured so that the total amount of the payments decrease so that no financial obligation remains due or owed by the state at the end of the time period specified in the post-unitary agreement; and

(D) Ensure that the total of any financial obligation created or established for the state in any one (1) year shall not exceed the state's desegregation obligation for the 2008-2009 school year.

(2) The agreement under this subsection may only be a post-unitary agreement, and the school districts shall receive the continued funding only if they are declared unitary. However, the agreement does not have to be post-unitary and may commence upon all school districts having been declared, previously or in the future, unitary in terms of student assignment and student racial balance so long as all other requirements in subdivision (b)(1) of this section are met.

(3) Before any agreement is entered into pursuant to this subsection, the proposed post-unitary agreement shall be submitted to the Legislative Council for review and approval.

(c)(1) The department in consultation with the Attorney General shall have the authority to enter into agreements with the three (3) Pulaski County school districts to reimburse the school districts for legal fees incurred for seeking unitary status or partial unitary status.

(2) To be eligible for possible reimbursement under this subsection for legal fees incurred, motions seeking unitary status or partial unitary status shall be filed no later than October 30, 2007, and the school districts must be declared unitary or at least partially unitary by the federal district court no later than December 31, 2012.

(3) Under no circumstances shall any one (1) school district be entitled to reimbursement under this subsection in excess of two hundred fifty thousand dollars (\$250,000).

(4) Before a reimbursement agreement is entered into pursuant to this subsection, the proposed reimbursement agreement shall be submitted to the Legislative Council for review and approval.

(d)(1) By modifying the current consent decree or entering into a new or an amended consent decree or post-unitary agreement, the State Board of Education may create one (1) or more new school districts within Pulaski County if the creation of the new school district or districts does not eliminate the Pulaski County Special School District from existence.

(2) The state board shall seek the federal district court's approval prior to creating a new school district pursuant to this subsection, unless the federal district court's approval is not required because:

(A) The school district or districts involved have been released from the federal district court's supervision; or

(B) The new school district or districts is contemplated only as part of the post-unitary agreement.

(3) Any new school district created in Pulaski County shall receive a pro rata distribution based on its average daily membership of the funding provided under subsection (b) of this section for the school district or districts from which it was created.

(e)(1) A school district receiving state funds under a federal court order or a settlement agreement in desegregation litigation shall categorize and describe the state funds received and any expenditure of those funds according to the uniform chart of accounts and codes established by the department.

(2) The department shall modify, as necessary, the Arkansas Financial Accounting Handbook or the Arkansas Educational Financial Accounting and Reporting System, or both, to ensure that the uniform chart of accounts and codes is available to accurately monitor:

(A) State funding paid to a school district under the federal court order or settlement agreement; and

(B) All expenditures of that funding.

(3) An error related to the coding and reporting of the state funds that causes a material misstatement of financial information is cause



for determining a deficiency under the State Board of Education Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements.

(f) By September 1 of each year, a school district that receives state funding pursuant to a federal court order or settlement agreement in desegregation litigation shall report to the department, in the form and manner established by the department, the following:

(1) The total amount of state funding received under the federal court order or settlement agreement in the previous school year;

(2) A detailed statement outlining the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan, including without limitation:

(A) Programs that the school district is required to administer;

(B) Specific goals that the school district is required to reach;

(C) Actions that the school district is required to take or is prohibited from taking;

(D) Problems that the school district is required to remedy;

(E) Overall purposes of the federal court order, settlement agreement, or court-approved remedial plan; and

(F) Any other pertinent information as determined by the department;

(3)(A) An itemized accounting of expenditures of state funds identified under subdivision (f)(1) of this section that were used to comply with the school district's obligations identified under subdivision (f)(2) of this section.

(B) The accounting shall be specific and detailed and include an explanation of how each expenditure was necessary in order to comply with the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan.

(C) It is not sufficient to provide general statements, such as stating that the funds were used in magnet schools.

(D) The department may determine additional guidelines regarding the necessary level of specificity;

(4) The total amount of all state funds referenced in subdivision (f)(1) of this section that the school district retains; and

(5) A statement that the total amount of funds listed in subdivisions (f)(3) and (4) of this section is equal to the total amount of state funding received, as reported by the school district under subdivision (f)(1) of this section, or alternatively, an explanation of the discrepancy.

(g)(1) A school district not utilizing the Arkansas Public School Computer Network shall provide the department and the Attorney General, or their designees, full and complete, real-time access to the accounting and school district financial management software utilized by the school district.

(2) A school district may satisfy the obligation under subsection (g)(1) of this section by converting to the Arkansas Public School Computer Network, but the school district still shall provide the department and the Attorney General, or their designees, with full and complete access to the prior financial management system.



(h) This section shall not:

(1) Force entry of a consent decree or settlement agreement by the department or the Attorney General with the three (3) Pulaski County school districts; or

(2) Protect any school district from action or sanction by the department for fiscal, academic, or facilities distress.

**History.** Acts 2007, No. 395, § 2; 2008 (1st Ex. Sess.), No. 2, §§ 1, 2; 2009, No. 242, § 2; 2011, No. 624, § 1; 2011, No. 701, § 2.

**A.C.R.C. Notes.** Acts 2011, No. 1074, § 29, provided: "PULASKI COUNTY DESEGREGATION CASE COSTS FUND TRANSFER — PUBLIC SCHOOL FUND. The Department of Education shall retain and use any unexpended balance of funds transferred to the Department of Education Fund Account during the 2007-09 biennium for the purpose of providing funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts to comply with the provisions of Arkansas Code §6-20-415 and §6-20-416. These retained funds shall be used exclusively to provide funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415 and §6-20-416."

"No portion of these retained funds shall be expended by the Department of Education without certification by the Commissioner of the Department of Education to the Chief Fiscal Officer of the State and prior approval by the Chief Fiscal Officer of the State."

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

**Amendments.** The 2008 (1st Ex. Sess.) amendment substituted "2008-2009" for "2007-2008" in (b)(1)(D); and substituted "December 31, 2008" for "June 14, 2008" in (c)(2).

The 2009 amendment substituted "December 31, 2009" for "December 31, 2008" in (c)(2).

The 2011 amendment by No. 624 substituted "December 31, 2012" for "December 31, 2009" in (c)(2).

The 2011 amendment by No. 701 inserted (e) through (g) and redesignated former (e) as (h).

## RESEARCH REFERENCES

**U. Ark. Little Rock L. Rev.** The Little Rock School District's Quest for Unitary Status, 30 U. Ark. Little Rock L. Rev. 267.

## SUBCHAPTER 5 — FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN

SECTION.

6-20-502. Definitions.

### 6-20-502. Definitions.

As used in this subchapter:

(1) "Child living in a foster home" means a school-age child in this state living in the residence of the guardian or the residence of a foster family home or child care facility when the Department of Human Services has custody of the child or when the child has been placed in a foster family home or child care facility by a circuit court or a juvenile division of a circuit court, or when the child has been placed in a family

care and training home by the department. “Child care facility” shall not include any unit of the human development centers operated by the department or its successor;

(2) “Child with disabilities” or “student with disabilities” means a person eligible to attend the public schools in this state who is identified as disabled in accordance with regulations promulgated by the State Board of Education under the Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(3) “Federal funds” means any federal funds received by the school district that are of a category or nature that would have benefited a child with disabilities or a child living in a foster home, as defined in this subchapter, if the child had attended the school district during the school year or the portion of the school year but who instead attended another school district in this state which makes application for funds to be used in behalf of the education of the child, as provided in this subchapter;

(4) “Local operating funds” means any local operating funds derived from property taxes for the school year, including any surplus funds received from millage pledged for indebtedness purposes but which are not necessary to meet debt service requirements and are transferred to the operating account of the school district for the year;

(5) “Receiving district” means a school district in this state in which a child attends or seeks to attend school other than the school district of residence of the child;

(6) “Sending district” means the school district that is defined by laws or regulations as being the school district of residence of the school-age child; and

(7) “State funds” means any state funds received by the school district under the Public School Funding Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or other state special education funds.

**History.** Acts 1981, No. 815, § 1; A.S.A. 1947, § 80-738; Acts 1993, No. 294, § 13; 1995, No. 1296, § 26; 1999, No. 391, § 17; 2009, No. 376, § 39.

**Amendments.** The 2009 amendment substituted “the Public School Funding

Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq.” for “§ 6-20-301 et seq. [repealed]” in (7), and made a related change.

SUBCHAPTER 6 — LOCAL SCHOOL DISTRICT ISOLATED FUNDING

SECTION.	SECTION.
6-20-601. Qualifications for receiving isolated funding.	6-20-603. Continued support of isolated school districts.
6-20-602. Isolated schools.	6-20-604. Additional funding.

**Effective Dates.** Acts 2009, No. 811, § 4: Apr. 3, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that school districts that enroll students

in an isolated school or from a closed isolated school need funding for the transportation of those students to and from the isolated area; that some school districts may lose isolated school funding when an isolated school is closed but continue to have the additional transportation costs; that the loss of the funding may place a hardship on the school district involved; and that this act is immediately necessary because school districts affected by this act and the Department of Education need to resolve the funding issues under this act before the beginning of the 2009-2010 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2010, No. 293, § 35: July 1, 2010. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for a longer period than one (1) fiscal year; that the effectiveness of this Act on July 1, 2010 is essential to the operation of the agency for which the appropriations in this Act are provided, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and

approval, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2010 could work irreparable harm upon the proper administration and provision of essential governmental programs, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2010, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval."

Acts 2011, No. 1075, § 35: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

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### **6-20-601. Qualifications for receiving isolated funding.**

(a) As used in this section, "isolated school district" means a school district that meets any four (4) of the following five (5) criteria:

(1) There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district;

(2) The density ratio of transported students is less than three (3) students per square mile of area;

(3) The total area of the district is ninety-five square miles (95 sq. mi.) or greater;

(4) Less than fifty percent (50%) of bus route miles is on hard-surfaced roads; and



(5) There are geographic barriers such as lakes, rivers, and mountain ranges that would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services.

(b) An isolated school district shall be eligible to receive isolated funding under this section if:

(1) The school district's budget is prepared by the school district with Department of Education approval;

(2) The school district has a prior-year three-quarter average daily membership of less than three hundred fifty (350); and

(3) The school district and each school within the school district meets the minimum standards for accreditation of public schools prescribed by law and regulation.

(c) Any school district designated as an isolated school district for the 1996-1997 fiscal year that used geographic barriers as one (1) of the four (4) criteria necessary to receive isolated funding shall be allowed to continue to use geographic barriers as a criterion for future allocations of isolated funding.

(d)(1) State financial aid in the form of isolated funding shall be provided to school districts qualifying under this section.

(2) There are two (2) categories of isolated funding:

(A) Category I isolated funding shall be provided to all school districts that qualify under this section and shall be calculated as:

(i) Three hundred fifty (350) minus the prior-year three-quarter average daily membership; divided by

(ii) Eight hundred fifty (850); multiplied by

(iii) The prior-year three-quarter average daily membership; and multiplied by

(iv) The per-student foundation funding amount under § 6-20-2305(a)(2); and

(B) Category II isolated funding shall be additionally provided to those school districts that qualify under this section and have a prior-year three-quarter average daily membership density ratio of less than one and two-tenths (1.2) students per square mile and shall be calculated at fifty percent (50%) of Category I funding.

(3)(A) An isolated school district whose per-student revenue exceeds the per-student foundation funding amount shall receive isolated funding calculated as follows:

(i) The sum of Category I plus Category II; minus

(ii) The per-student foundation funding amount; minus

(iii) The school district's per-student revenue; and multiplied by

(iv) The prior-year three-quarter average daily membership.

(B) As used in this subdivision (d)(3), "revenue" has the same meaning as defined in § 6-20-2303.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-603 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-603 if the school district qualifies for funding under § 6-20-603 and for funding under this section.

**History.** Acts 1997, No. 1318, § 1; 1999, No. 1549, § 21; 2001, No. 1220, § 11; 2011, No. 1131, § 1.

**Amendments.** The 2011 amendment inserted “under this section” in the introductory language of (b); substituted “school district” for “local district” in

(b)(1); substituted “a prior-year three-quarter average daily membership” for “an average daily membership” in (b)(2); inserted “and each school within the school district” in (b)(3); and rewrote (d) and (e).

### **6-20-602. Isolated schools.**

(a) “Isolated school” means a school within a school district that:

(1) Prior to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5) qualified as an isolated school district under § 6-20-601; and

(2) Is subject to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5).

(b) Any isolated school within a resulting or receiving district shall remain open unless the school board of directors of the resulting or receiving district adopts a motion to close the isolated school or parts thereof by:

(1) Unanimous vote of the full board of directors; or

(2)(A) A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education.

(B) Any school board of directors seeking the state board approval to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section shall:

(i) No less than thirty (30) days prior to a regularly scheduled state board meeting, request a hearing on the matter before the state board and file a petition to have the motion reviewed and approved by the state board.

(ii) The petition shall:

(a) Identify the specific isolated schools or part thereof that the local board of directors has moved to close;

(b) State all reasons that the isolated schools or part thereof should be closed;

(c) State how the closure will serve the best interests of the students in the district as a whole;

(d) State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and

(e) Have attached a copy of the final motion approving the closure by the local board of directors.

(C)(i) Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivision (b)(2)(A) of this section,

the state board shall have the authority to review and approve or disapprove the petition.

(ii) The state board shall only approve a motion to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section if the closure is in the best interest of the students in the school district as a whole.

(iii) The state board shall not close a school if the state board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.

(D)(i) Except under subdivision (b)(2)(D)(ii) of this section, the state board shall not require the closure of all or part of an isolated school without a motion from the local board of directors as required under subdivision (b)(2)(A) of this section.

(ii) This section shall not be construed to restrict the authority of the Department of Education and the state board otherwise granted by law.

(c) Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

**History.** Acts 2003 (2nd Ex. Sess.), No. 60, § 5; 2005, No. 1397, § 2; 2011, No. 1131, § 2.

**Amendments.** The 2011 amendment

added the exception at the beginning of present (b)(2)(D)(i); and added (b)(2)(D)(ii).

### CASE NOTES

#### Closure.

In an appeal by parents under § 25-15-212 of the State Board of Education's decision to close a K-12 school campus under subsection (a) of this section, the state's duty to provide an adequate education, its obligation to render a definition of excessive transportation time, and its obligation to adequately fund the transportation needs of school districts were not issues before the court where the state was not a party to the action. *Walker v. Ark. State Bd. of Educ.*, 2010 Ark. 277, — S.W.3d — (2010).

The Administrative Procedure Act (APA), § 25-15-201 et seq., is applicable to a decision by the State Board of Education regarding a petition for closure, pursuant to this section, because the Board is an

administrative agency, whose decisions are subject to appeal as governed by the APA, and the Board acts in a judicial or quasi-judicial capacity, rather than a day-to-day administrative capacity, when it reviews a petition for closure of an isolated school. *Walker v. Ark. State Bd. of Educ.*, 2010 Ark. 277, — S.W.3d — (2010).

In an appeal by parents of the State Board of Education's decision to close a K-12 school campus under subsection (a) of this section, the parents' allegation that their children would suffer a negative impact on their academic achievement due to the Board's approval of the school district's petition for closure was sufficient injury to confer standing under § 25-15-212. *Walker v. Ark. State Bd. of Educ.*, 2010 Ark. 277, — S.W.3d — (2010).



**6-20-603. Continued support of isolated school districts.**

(a) Upon the effective date of consolidation, annexation, or reorganization, the following school districts that received isolated funding in the 2003-2004 school year shall become isolated school areas for the sole purpose of receiving isolated funding and shall have a per student isolated funding amount as follows:

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Alread	2,219
Desha	Arkansas City	2,040
Randolph	Biggers-Reyno	763
Miller	Bright Star	916
Marion	Bruno-Pyatt	329
Dallas	Carthage	1,938
Independence	Cord-Charlotte	235
Woodruff	Cotton Plant	733
Crittenden	Crawfordsville	642
Newton	Deer	853
Greene	Delaplaine	215
Desha	Delta Special	952
Nevada	Emmet	307
Sharp	Evening Shade	115
Ashley	Fountain Hill	339
Yell	Fourche Valley	1,603
Arkansas	Gillett	1,000
Lincoln	Gould	765
Lincoln	Grady	560
Polk	Hatfield	42
Monroe	Holly Grove	868
Arkansas	Humphrey	328
Union	Huttig	668
Cleveland	Kingsland	394
Madison	Kingston	661
Phillips	Lake View	1,054
Searcy	Leslie	628
Lawrence	Lynn	782
Columbia	McNeil	329
Union	Mount Holly	898
Newton	Mount Judea	622
Izard	Mount Pleasant	225
Johnson	Oark	1,576
Montgomery	Oden	671

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Funding Amount</u>
		<u>Column C</u>
Saline	Paron	733
Yell	Plainview-Rover	297
Franklin	Pleasant View	679
Randolph	Randolph County	444
Lawrence	River Valley	106
Stone	Rural Special	788
Searcy	Saint Joe	727
Madison	Saint Paul	123
Hempstead	Saratoga	1,407
Van Buren	Scotland	1,841
Dallas	Sparkman	487
Ouachita	Stephens	1
Stone	Stone County	367
Jackson	Swifton	458
Columbia	Taylor	353
Howard	Umpire	2,152
Union	Union	45
Columbia	Walker	819
Newton	Western Grove	375
Cleburne	Wilburn	978
Sharp	Williford	475
Washington	Winslow	494

(b) Each school year, state financial aid in the form of isolated funding shall be provided to school districts containing an isolated school area in an amount equal to the prior-year three-quarter average daily membership of the isolated school area multiplied by the per student isolated funding amount for the isolated school areas as set forth under column "C" of subsection (a) of this section.

(c)(1) Except as provided under subdivision (c)(2) of this section, a school district may not receive isolated funding under this section for an isolated school area if the prior-year three-quarter average daily membership of the isolated school area exceeds three hundred fifty (350).

(2) A school district is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or § 6-13-1601 et seq.

(d) A school district receiving isolated funding for an isolated school area shall expend the funds solely for the operation, maintenance, and support of the isolated school area.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-601 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-601 if the school district qualifies for funding under § 6-20-601 and for funding under this section.

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school areas as required by the Department of Education and shall submit reports as required by the department.

(g) The department shall distribute isolated funding under this section in two (2) payments per school year.

(h) This section does not determine a school district's qualification as an isolated school district under § 6-20-601 as required to prohibit the closing of an isolated school in § 6-20-602.

(i)(1)(A) If all of an isolated school area in a school district is closed, the school district shall receive funding based on the prior-year three-quarter average daily membership of the isolated school area.

(B) If part of an isolated school area in a school district is closed, the school district funding is based on the prior-year three-quarter average daily membership of the part of the isolated school area that remains open.

(C) Funding received by a school district under this subsection is restricted for use at the closed isolated school area or for transporting students of the closed isolated school area to another school in the district.

(2) If a closed isolated school area is subsequently used by the school district for an alternative learning environment program or other regular classroom teaching, the school district using the now closed isolated school area may submit prior-year three-quarter average daily membership to the state to request funding under this section.

(j) The State Board of Education may promulgate rules as necessary for the proper implementation of this section.

**History.** Acts 2003 (2nd Ex. Sess.), No. 65, § 1; 2007, No. 1573, §§ 29, 30; 2009, No. 811, § 1; 2011, No. 996, § 1; 2011, No. 1131, § 3.

**Amendments.** The 2007 amendment substituted "Each school year" for "Beginning with the 2004-2005 school year and each school year thereafter" in (b); substituted "three-quarter average daily membership" for "three (3) quarter average daily membership" in (b) and (c); added (i), and redesignated the following subdivision accordingly; and made related and stylistic changes.

The 2009 amendment inserted "Except as provided under § 6-20-604(g)" in (i)(1); deleted (i)(3), and made a related change.

The 2011 by No. 996 amendment rewrote (c).

The 2011 amendment by No. 1131 substituted "prior-year" for "prior year's" in (b), (c) and present (i)(1)(A); inserted present (c)(2); rewrote (e); deleted former (i)(1), inserted present (i)(1)(B) and (i)(1)(C), and redesignated the remaining subdivisions accordingly; and, in present (i)(1)(A), substituted "If all of an isolated school area" for "If all or part of an iso-



lated school" and "the isolated school area" for "or the part of the isolated school that remains open."

#### **6-20-604. Additional funding.**

(a) The General Assembly finds that school districts that contain isolated schools need additional funding to provide an adequate education for students attending schools in those school districts.

(b) A school district shall receive special needs funding under subsections (c), (d), or (e) of this section if the school district meets the requirements of subsections (c), (d), or (e), respectively, of this section and if:

(1) The school district was consolidated or annexed or received an annexed school under § 6-13-1601 et seq.;

(2) The local school board of directors by majority vote determines that the isolated school is so isolated that to combine its operation to one (1) school district campus would be impractical or unwise; and

(3) The isolated school or school district:

(A) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the State Board of Education during the consolidation or annexation process, and the facts of the affidavit are verified by the state board or its designee;

(B) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee; or

(C) Meets the requirements of § 6-20-601 but for the prior-year three-quarter average daily membership requirement of three hundred fifty (350) students or fewer and filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee.

(c) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to twenty percent (20%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(1) School facilities serving students in any grade in kindergarten through grade twelve (K-12), in one (1) or more isolated schools meeting the requirements of subsection (b) of this section;

(2) A prior-year three-quarter average daily membership for the school district of five hundred (500) or less; and

(3) A density ratio of one and three-tenths (1.3) students or less per square mile.

(d)(1) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to fifteen percent

(15%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(A) School facilities open for kindergarten through grade twelve (K-12) in two (2) or more isolated schools meeting the requirements of subsection (b) of this section and meeting the requirements of § 6-20-601 and if both isolated schools were annexed under § 6-13-1601 et seq.;

(B) A prior-year three-quarter average daily membership for the school district of five hundred one (501) to one thousand (1,000); and

(C) A density ratio of one and four-tenths (1.4) students or less per square mile.

(2) A school district with a three-quarter average daily membership of one thousand one (1,001) or greater is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or § 6-13-1601 et seq.

(e)(1) Except as provided in subdivision (e)(2) of this section, a school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school area if the school district has school facilities open for kindergarten through grade twelve (K-12) in one (1) or more isolated school areas meeting the requirements of subsection (b) of this section.

(2) A school district shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school area if:

(A) The school district has school facilities serving students in any grade in kindergarten through grade twelve (K-12) in one (1) or more isolated school areas meeting the requirements of subsection (b) of this section; and

(B) The school district closed an isolated facility serving students in grades seven through twelve (7-12) between January 1, 2008, and July 1, 2008.

(f) A school district shall receive an additional amount equal to five percent (5%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the school district if the school district has a:

(1) Prior-year three-quarter average daily membership of less than five hundred (500) students; and

(2) Density ratio of two (2) students or less per square mile.

(g) A school district eligible for special needs funding under this section shall continue to be eligible to receive isolated school funding provided under § 6-20-603 but shall only receive funding under one (1) of the categories established under subsections (c)-(f) of this section.

(h)(1) This section is contingent on the appropriation and availability of funding for its purposes.

(2)(A) Undistributed funds under this section and §§ 6-20-601 and 6-20-603 shall be distributed on an equal basis per school district to each school district that is eligible to receive funds under subsections (c), (d), or (e) of this section.

(B) Funds distributed under subdivision (h)(2)(A) of this section shall be used by the school district only for transportation costs of the isolated school areas in the school district.

(3) Funding provided under this section is in addition to and in excess of the amount of funds necessary to provide an adequate education as required by the Arkansas Constitution and cannot be relied upon beyond the expiration date of an appropriation made for the purposes of this section.

**History.** Acts 2005, No. 1452, § 1; 2006 (1st Ex. Sess.), No. 21, § 2; 2007, No. 1052, §§ 1, 2; 2007, No. 1573, §§ 31, 32; 2009, No. 811, §§ 2, 3; 2010, No. 293, § 32; 2011, No. 996, § 2; 2011, No. 1075, § 31; 2011, No. 1131, § 4.

**A.C.R.C. Notes.** Acts 2011, No. 1075, § 31, purported to amend § 6-20-604(e) but made no change.

**Amendments.** The 2007 amendment by No. 1052 added the subdivisions designated herein as (h)(2) and (3); and made stylistic changes.

The 2007 amendment by No. 1573 rewrote (a); deleted former (h) and redesignated former (i) as present (h)(1); and made stylistic changes.

The 2009 amendment, in (c)(1), substituted “serving students in any grade in” for “open for,” substituted “one (1)” for “two (2),” and made a minor punctuation change; and substituted “expiration date of an appropriation made for the purposes of this section” for “2007-2009 biennium” in (h)(3).

The 2010 amendment added (e)(2); and added “Except as provided in subdivision (e)(2) of this section” at the beginning of (e)(1).

The 2011 amendment by No. 996 redesignated former (d) as present (d)(1) and added (d)(2).

The 2011 amendment by No. 1131 rewrote the section.

## SUBCHAPTER 8 — REVOLVING LOAN PROGRAM — GENERAL PROVISIONS

### SECTION.

6-20-815. Refunding obligations.

### 6-20-815. Refunding obligations.

(a) In order that the Revolving Loan Program may be kept on a sound financial basis, school districts having heretofore issued revolving loan bonds or revolving loan certificates of indebtedness are authorized to issue refunding bonds, in the case of revolving loan bonds, and refunding certificates, in the case of revolving loan certificates of indebtedness, herein collectively referred to as refunding obligations.



(b) Refunding obligations may be issued pursuant to the prior approval of the State Board of Education and may bear a higher rate of interest than the bonds or certificates being refunded.

(c) The last maturity date of the refunding obligations must not be later than the last maturity date of the bonds or certificates being refunded.

(d) Refunding obligations shall enjoy the same security for their payment as was enjoyed by the bonds or certificates refunded thereby, including particularly and without limitation, any continuing annual debt service fund tax voted and pledged to their payment.

(e) Except as to particulars dealt with in this section, refunding obligations shall be governed, insofar as their authorization and security are concerned, by the provisions of this subchapter.

**History.** Acts 1953, No. 384, § 16, as added by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-957; Acts 2011, No. 989, § 63.

**Amendments.** The 2011 amendment substituted "debt service" for "building" in (d).

## SUBCHAPTER 11 — REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT

### SECTION.

6-20-1101. [Repealed.]

### 6-20-1101. [Repealed.]

**Publisher's Notes.** This section, concerning scope, was repealed by Acts 2009, No. 376, § 40. The section was derived

from Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983.

## SUBCHAPTER 12 — DISTRICT BONDS

### SECTION.

6-20-1201. Authority to borrow money and issue negotiable bonds.

6-20-1206. Manner and terms of sale — Maximum rate of interest.

6-20-1209. Debt service fund — Establishment and purpose.

6-20-1210. Debt service fund — Use.

6-20-1211. Tax records — Separate debt service fund records.

6-20-1212. Resolution setting priority in case of default.

### SECTION.

6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.

6-20-1220. Refunding bonds — Issuance with election — Validation.

6-20-1223. Refunding bonds — Issuance without election.

6-20-1225. Certificates of indebtedness.

**Effective Dates.** Acts 2009, No. 1469, § 32; Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional

obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is

provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall

become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

### **6-20-1201. Authority to borrow money and issue negotiable bonds.**

A school district may borrow money and issue negotiable bonds to repay borrowed moneys from school funds for:

- (1) Building and equipping school buildings;
- (2) Making additions and repairs to school buildings;
- (3) Purchasing sites for school buildings;
- (4) Purchasing new or used school buses;
- (5) Refurbishing school buses;
- (6) Providing professional development and training of teachers or other programs authorized under the federally recognized Qualified Zone Academy Bond program, 26 U.S.C. § 1397E; and
- (7) Paying off outstanding postdated warrants, installment contracts, revolving loans, and lease-purchase agreements, as provided by law.

**History.** Acts 1931, No. 169, § 59; Pope's Dig., § 11492; A.S.A. 1947, § 80-1101; Acts 1991, No. 405, § 1; 1994 (2nd Ex. Sess.), No. 43, § 1; 2001, No. 1220, § 15; 2003, No. 1738, § 4; 2009, No. 1469, § 10.

**Amendments.** The 2009 amendment rewrote the section.

### **6-20-1206. Manner and terms of sale — Maximum rate of interest.**

(a)(1) All school bonds shall be sold to the highest bidder at public sale.

(2)(A)(i) Advertisement of a bond sale under this section shall be published in at least one (1) newspaper published in the county with the publication to be one (1) time a week for two (2) weeks.

(ii) The first publication shall be at least thirteen (13) days before the date of the sale.

(B)(i) If the newspaper responsible for publishing the advertisement of a bond sale does not publish either or both of the two (2) publications required under this subsection within the required time frame, the Commissioner of Education may approve an alternate form of advertisement of the bond sale.

(ii) The public school district shall use the alternate form of advertisement only for the bond sale related to the failed publication.

(iii) Within thirty (30) days after the sale of bonds is completed for which an alternate form of advertisement is used by a public school district under this subdivision (a)(2)(B), the public school district shall provide by one (1) publication in a newspaper published in the county a notice:

(a) Of the date of the sale and the principal amount of the bonds sold; and

(b) That the alternate form of advertisement was used.

(3) At any time after receiving bids on bonds, all bids may be rejected and the bonds readvertised for the time and in the manner provided under subdivision (a)(2) of this section.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum lawful rate as defined in subsection (b) of this section.

(5) Bonds may be sold at a discount, but in no event shall the school district be required to pay more than the maximum lawful rate of interest on the amount received.

(6) Bonds may be sold with the privilege of conversion into bonds bearing a lower rate or rates of interest, but the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay if the bonds were not converted.

(7) The school district shall pay the expenses of issuing the bonds and may supply the opinion of attorneys approving the validity of the bonds.

(8) No brokerage, agent's fees, or commissions of any kind for securing bids for the sale of school district bonds shall be allowed or paid on any bond sale unless it is approved by the commissioner, and any person giving or receiving it without approval shall be guilty of a Class A misdemeanor.

(b) As used in this section, "maximum lawful rate" means a rate of interest equal to five percent (5%) per annum above the rate for primary credit or its functional equivalent in effect at the Federal Reserve Bank in the Federal Reserve district in which Arkansas is located at the time a bid for bonds is accepted.

(c) The State Board of Education is authorized to set a maximum rate of interest at which school bonds may be sold under the conditions stated in subsection (a) of this section at any level below the maximum lawful rate.

**History.** Acts 1931, No. 169, § 63; 2005, No. 1994, § 197; 2009, No. 1466, Pope's Dig., § 11496; Acts 1970 (Ex. Sess.), No. 64, § 1; 1980 (1st Ex. Sess.), No. 56, § 1; 1981, No. 812, § 1; 1983, No. 880, § 1; A.S.A. 1947, § 80-1106; Acts 1999, No. 1045, § 1; 2003, No. 210, § 3;

2005, No. 1994, § 197; 2009, No. 1466, § 1.

**Amendments.** The 2009 amendment rewrote (a)(2); and substituted "provided under subdivision (a)(2) of this section" for "herein provided" in (a)(3).

## 6-20-1209. Debt service fund — Establishment and purpose.

All school districts in Arkansas proceeding under this act to borrow money and issue bonds, in addition to other security herein authorized, may and are authorized to establish a debt service fund in an amount



sufficient to pay the maturities of bond principal and interest, as they accrue, of the issue of bonds, that the debt service fund shall be set aside out of the first revenues of the school district from whatever source derived and shall be held by the county treasurer, or school district treasurer if the school district has its own treasurer, solely in the manner and for the purposes set out throughout this act.

**History.** Acts 1931, No. 169, § 66; Pope's Dig., § 11499; A.S.A. 1947, § 80-1111; Acts 1995, No. 233, § 17; 2011, No. 989, § 64.

**Amendments.** The 2011 amendment substituted "debt service" for "building" in the section heading and throughout the section.

### **6-20-1210. Debt service fund — Use.**

(a) The debt service fund shall not be used for any other purpose in any year than to pay the bonds and interest thereon maturing that year and any that may be past due, until the maturities are paid in full or until the funds are set aside to pay the full amount of the bonds; provided, the surplus in any year over and above the amount necessary to pay bonds and interest maturing that year, whether hereafter or heretofore issued, may be used by the respective school districts for any other school purposes.

(b) The county treasurer, or school district treasurer if the school district has its own treasurer, shall see to it that all warrants on the debt service fund of any school district are drawn only to pay maturities of principal or interest on bonds of this school district, other school purposes as herein provided, or past due interest as shown by the records in his or her office.

(c) It is intended that the provisions of this section are to be cumulative and are not to repeal the provisions of any other act now in force except such laws and parts of laws as may be in conflict herewith.

**History.** Acts 1931, No. 169, § 67; 1935, No. 63, §§ 1, 3; Pope's Dig., §§ 11500, 11506; Acts 1939, No. 326, § 2; A.S.A. 1947, §§ 80-1112, 80-1113; Acts 1995, No. 233, § 18; 2011, No. 989, § 65.

**Amendments.** The 2011 amendment substituted "Debt service fund" for "Build-

ing fund" or variant in the section heading and in (b); substituted "The debt service fund shall not" for "No part of any building fund shall" in (a); and deleted "and he or she shall countersign all warrants on the building fund before they are valid" following "his or her office" in (b).

### **6-20-1211. Tax records — Separate debt service fund records.**

(a) In showing school taxes on the tax books, it shall not be necessary to show separate amounts for the debt service fund or any other fund that may be created by the school district board of directors, but there shall be one (1) amount extended on the tax books showing the total of the school district tax for that year.

(b) However, the county treasurer, or school district treasurer if the school district has its own treasurer, shall keep separate records in his or her office showing separately the debt service fund and shall see to it that on all settlements made with him or her of tax money or state

apportionment money, the debt service fund is credited with all funds set apart for debt service by the electors or by the school district board of directors.

**History.** Acts 1931, No. 169, § 68; Pope's Dig., § 11501; A.S.A. 1947, § 80-1114; Acts 1995, No. 233, § 19; 2011, No. 989, § 66.

substituted "debt service fund" for "building fund" in the section heading and in (a) and (b); and substituted "for debt service" for "therefor" in (b).

**Amendments.** The 2011 amendment

### **6-20-1212. Resolution setting priority in case of default.**

On the issuance of any bonds, the school district board of directors may provide by resolution, which shall be a contract with the holders of the bonds, that should there be a default in the payment of any installment of principal or interest when due, the first moneys coming to the school district from any source, other than the uniform rate of tax, shall be paid into the debt service fund and applied on past due principal or interest on the bonds until paid in full.

**History.** Acts 1931, No. 169, § 69; Pope's Dig., § 11502; A.S.A. 1947, § 80-1115; Acts 1997, No. 1300, § 19; 2011, No. 989, § 67.

**Amendments.** The 2011 amendment substituted "debt service fund" for "building fund."

### **6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.**

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the Department of Education, and the Commissioner of Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

(b)(1) Refunding bonds may be exchanged for outstanding bonds, as provided in this section, or they may be sold for cash and the proceeds used to pay the outstanding bonds, or part of the refunding bonds may be exchanged and part of the refunding bonds may be sold, as the board of directors may deem best for the school district.

(2) In the event that after a school district has exchanged part of a refunding issue that has been converted to a lower interest rate as herein authorized and it becomes necessary or desirable to sell the balance of such a refunding issue to pay the bonds being refunded instead of exchanging them for refunding bonds, the school district may then advertise and sell the balance at the rate of interest to which the issue has been converted.

(c) If the refunding bonds are sold at public sale to refund outstanding bonds that have been called for redemption, they shall be fully

executed and delivered to the designated escrow agent who shall have authority to surrender them, on and after the redemption date of the bonds being refunded, to the purchaser upon the deposit with the escrow agent on or before the redemption date of the money necessary for the redemption of the bonds being refunded.

(d)(1) In order to facilitate the refunding of school bonds, any school district issuing refunding bonds may issue certificates of indebtedness maturing in one (1) to five (5) years, payable to bearer and negotiable, to cover the costs of refunding or interest due on outstanding bonds at the time they are exchanged for refunding bonds, or both.

(2) The certificates of indebtedness shall be paid out of the debt service fund of the school district from any surplus that remains in the debt service fund in any years after the payment of the full amount of bonds and interest due that year on the refunding issue.

(3) Any certificates of indebtedness issued in connection with an issue of refunding bonds shall be registered by the county treasurer.

(4) All certificates of indebtedness thus issued and registered shall not be invalidated because at the time of their issuance or at their maturity date there is not a surplus in the debt service fund available for their payment, but they shall continue as valid obligations of the school district until such a surplus in the debt service fund has accumulated for their payment.

**History.** Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 2005, No. 2121, § 16; 2011, No. 989, § 68.

substituted "debt service fund" for "building fund" in two places in (d)(2) and two places in (d)(4).

**Amendments.** The 2011 amendment

## **6-20-1220. Refunding bonds — Issuance with election — Validation.**

Refunding bonds issued by any school district of the State of Arkansas, when authorized at any general or special school election by a vote of the electors of the school district for a continuing debt service fund to retire refunding bonds, shall be the valid, legal, and binding obligations of the school district provided that the issuance of the refunding bonds is approved by the State Board of Education or the Commissioner of Education prior to the issuance of the refunding bonds.

**History.** Acts 1935, No. 336, § 1; A.S.A. 1947, § 80-1125; Acts 1999, No. 1046, § 4; 2011, No. 989, § 69.

**Amendments.** The 2011 amendment substituted "debt service fund" for "building fund."

## **6-20-1223. Refunding bonds — Issuance without election.**

(a) School districts of this state may issue refunding bonds without the necessity of submitting the question of issuing the refunding bonds to a vote of the electors of the school district and without the approval of the State Board of Education provided that:



(1) The last maturity date of the refunding bonds is not later than the last maturity date of the bonds being refunded;

(2) The total amount required to pay principal and interest of the refunding bonds as they become due and payable, as well as any issuance costs required to be paid by the school district, exclusive of issuance costs paid from the proceeds of the refunding bonds, must be less than the total amount required to pay principal and interest of the bonds being refunded as they become due and payable; and

(3) The issue has been approved by the Commissioner of Education or the commissioner's designee subject to Department of Education rules and regulations.

(b)(1) Refunding bonds, authorized by a resolution of the board of directors of the school district issuing them, may enjoy the same security for their payment as was enjoyed by the bonds refunded thereby, including particularly, and without limitation, any continuing annual debt service fund taxes voted and pledged to the payment of the bonds refunded thereby, except that, in all school districts operating pursuant to federal court desegregation decrees, the refunding bonds may but shall not be required to enjoy the same security for payment as was enjoyed by the bonds refunded.

(2) Except as to the particulars dealt with in this section, refunding bonds shall be governed insofar as their authorization and security are concerned by provisions of existing law.

**History.** Acts 1965, No. 43, § 1; 1975 (Extended Sess., 1976), No. 1233, § 1; A.S.A. 1947, § 80-1131; reen. Acts 1987, No. 1018, § 1; Acts 1989 (3rd Ex. Sess.), No. 64, § 1; 1999, No. 1046, § 5; 2011, No. 989, § 70.

**Amendments.** The 2011 amendment substituted "debt service fund" for "building fund" in (b)(1).

## **6-20-1225. Certificates of indebtedness.**

(a) A school district of Arkansas filing a petition in United States District Court for the composition of its bonded indebtedness and having more than five (5) years' past due interest on bonds being purchased at a discount, in order to facilitate such purchase, shall have the right to issue certificates of indebtedness payable, without interest over a period of five (5) years, from the surplus in the debt service fund and any other available revenue that the school district may pledge, for an amount not to exceed two (2) years' interest on the bonds being purchased and not to exceed two percent (2%) of the assessed valuation of all taxable property in the school district as shown by the last county assessment and may pledge the surplus and available revenue for their payment.

(b) In any case in which a school district has heretofore issued certificates of indebtedness under substantially the conditions outlined in subsection (a) of this section, such action of the school district is approved and confirmed and the certificates of indebtedness so issued are declared to be the binding obligations of that school district,

provided their issuance has been ordered or approved by the United States District Court in which the petition for composition of debt was filed.

**History.** Acts 1943, No. 151, § 1; A.S.A. substituted “debt service fund” for “building fund” in (a).  
1947, § 80-1129; Acts 2011, No. 989, § 71.

**Amendments.** The 2011 amendment

## SUBCHAPTER 14 — STATE AID FOR CONSTRUCTION

### SECTION.

6-20-1401. Rules.

6-20-1407. Approval of building plans.

### 6-20-1401. Rules.

The Commission for Arkansas Public School Academic Facilities and Transportation may make rules consistent with this subchapter that the commission determines is necessary to accomplish the purposes of this subchapter.

**History.** Acts 1949, No. 230, § 8; A.S.A. deleted “and regulations” at the end of the  
1947, § 80-3508; Acts 2009, No. 1473, § 8. section heading; and rewrote the section.

**Amendments.** The 2009 amendment

### 6-20-1407. Approval of building plans.

(a) As used in this section:

(1) “Public school facility” has the same meaning as defined in § 6-21-803 of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.; and

(2) “Self-funded project” is a project that is one hundred percent (100%) raised and funded by the school district.

(b) No public school facility shall be built, added to, or renovated except in accordance with the plan finally approved by the Commission for Arkansas Public School Academic Facilities and Transportation for all projects in which the commission requires its approval.

(c) A copy of approved plans and specifications of all new public school facilities, additions, or renovations shall be filed with and approved by the commission before construction shall be commenced.

(d) The approval process established by the commission shall include review and approval by all appropriate and applicable state agencies, boards, and local officials necessary to meet the standard contained in the Arkansas Public School Academic Facility Manual.

(e)(1) For new public school facilities, a copy of final construction documents shall be submitted to the Design Review Section of the Arkansas Building Authority for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines.

(2) All review comments received from the authority shall be in writing.

(3) Corrected construction documents shall be received and approved by the Arkansas Building Authority.

(4) No new public school facilities project shall be released for bidding or construction until the requirements of this subsection are met.

(f)(1) For additions or renovations, a copy of final construction documents shall be submitted to the Fire Marshal's Office of the Department of Arkansas State Police for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines.

(2) All review comments received from the Fire Marshal's Office shall be in writing.

(3) Corrected construction documents shall be received and approved by the Fire Marshal's Office.

(4) No additions or renovation project shall be released for bidding or construction until the requirements of this subsection are met.

(g) Review and approval of plans under this section or otherwise shall not be a guarantee of state financial participation in any public school academic facilities project.

(h)(1) The commission shall approve a self-funded project that complies with state codes and standards.

(2) A school district may submit a self-funded project in the form of an appendix to the existing school district master plan at any time.

**History.** Acts 1949, No. 230, § 6; A.S.A. 1947, § 80-3506; Acts 1997, No. 1226, § 2; 2005, No. 1426, § 4; 2007, No. 989, § 2; 2009, No. 376, § 41; 2011, No. 1006, § 3.

**Amendments.** The 2007 amendment deleted "When so required by the commission" from the beginning of (b); inserted present (c) and redesignated the remaining subsections accordingly; deleted "§ 6-20-1406 and" preceding "this section" in present (d)(4); and added (f).

The 2009 amendment, in (d)(1), substituted "Design Review Section" for "Architectural Section," substituted "Americans with Disabilities Act Accessibility Guidelines" for "(ADAAC Americans with Disabilities Act Accessibility Guidelines)," and made a minor stylistic change.

The 2011 amendment inserted present (a) and (f) and redesignated the remaining

subsections accordingly; in (b), substituted "public school facility" for "new schoolhouse" and inserted "added to, or renovated"; in (c), substituted "public school facilities" for "schoolhouses or" and inserted "or renovations"; added "For new public school facilities" to the beginning of (e)(1); in (e)(4), inserted "new public school facilities" and substituted "subsection" for "section"; deleted (h)(1) and redesignated (h)(2) and (3) as (h)(1) and (2); substituted "commission shall approve a self-funded project that complies" for "project shall be approved upon compliance" in (h)(1); and, in (h)(2), inserted "school district may submit a" and deleted "may be submitted" following "project."

## SUBCHAPTER 19 — ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM

### SECTION.

6-20-1904. Indicators of fiscal distress.

6-20-1905. Notification and appeal.



**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

## 6-20-1903. Definitions.

### CASE NOTES

#### Removal of Superintendent.

Summary judgment was proper for a school district in a superintendent's claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education's assumption of fiscal control of the district and removal of the superintendent under

subdivision (6) of this section. The Department's recommendations as to staffing and the fiscal practices of the district were binding on the district per § 6-20-1908(f). *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126, — S.W.3d — (2011), rehearing denied, — Ark. App. —, — S.W.3d —, 2011 Ark. App. LEXIS 244 (Mar. 30, 2011).

## 6-20-1904. Indicators of fiscal distress.

(a) A school district meeting any of the following criteria may be identified by the Department of Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the department, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements; or

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

(b)(1) By August 31 of each year, the department shall report to the superintendent of a school district if the department is aware that the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the department deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(2) The superintendent of a school district shall report to the department if the superintendent is aware the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(3)(A) The department and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the department's determination that the school district may be experiencing fiscal distress at a nonmaterial level, the department shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the school district if not addressed; and

(b) Identifies the support available from the department to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of fiscal distress.

**History.** Acts 2003, No. 1467, § 18;  
2007, No. 741, § 1; 2009, No. 798, § 1.

**Amendments.** The 2009 amendment  
added (b).

**6-20-1905. Notification and appeal.**

(a)(1)(A)(i) The Department of Education shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of each school district identified as being in fiscal distress.

(ii) The department shall provide the notice required under this subdivision (a)(1)(A) on or before March 30 of each year.

(B)(i) At any time after March 30, the department may identify a school district as being in fiscal distress if the department discovers that a fiscal condition of a school district negatively impacts the continuation of educational services by the school district.

(ii) The department immediately shall provide the same notice required under subdivision (a)(1)(A)(i) to the school district identified under this subdivision (a)(1)(B).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the department.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the department's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 2003, No. 1467, § 18; 2007, No. 741, § 2; 2009, No. 1469, § 11.

**Amendments.** The 2009 amendment rewrote (a).

**6-20-1908. Fiscal distress plan.****CASE NOTES****Binding Effect of Department Recommendations.**

Summary judgment was proper for a school district in a superintendent's claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education's assumption of fiscal control of the district

and removal of the superintendent under § 6-20-1903(6). The Department's recommendations as to staffing and the fiscal practices of the district were binding on the district per subsection (f) of this section. *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126, — S.W.3d — (2011), rehearing denied, — Ark. App. —, — S.W.3d —, 2011 Ark. App. LEXIS 244 (Mar. 30, 2011).



## SUBCHAPTER 22 — ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004

## SECTION.

6-20-2202. Budget and expenditure report.

6-20-2203. Uniform budget and accounting system required.

## SECTION.

6-20-2208. Monitoring of expenditures.

**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 701, § 6: Mar. 24, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has paid the Pulaski County School Districts

over one billion dollars as required by the Pulaski County Desegregation Case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866; that the Attorney General and the Department of Education are examining the finances of the Pulaski County school districts to determine how those funds are utilized by the districts; that the accounting required by this act is an essential part of reaching a fiscally responsible end to the case; that the General Assembly's support for the efforts of the Attorney General and the department should be provided immediately because the continued funding under the existing settlement agreement without proper accounting and State oversight is detrimental to the fiscal integrity of the three school districts and the State, and to the education of the students in the school districts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

### 6-20-2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative annually shall prepare a budget of expenditures and receipts that shall be filed with the Department of Education by September 30 of each year under this subchapter.

(2) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education

service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative. The budget shall contain the information and be prepared in an electronic format prescribed by the Department of Education governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the Department of Education shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than September 15 of each year.

(B) The Department of Education shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via a Commissioner of Education's memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the auditors of the financial accountability office of the Department of Education to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B) The review and the determination shall be completed not later than February 15 of each year. If the auditors of the financial accountability office determine that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond prior to suspension of the grants and aids.



(2) Upon approval by the auditors, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the Department of Education.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the Department of Education:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The Department of Education shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their intended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Department of Education shall be filed by August 31 of each year with the Department of Education.

(ii) A final close must be performed in each school district's open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 30, 2007, for the 2006-2007 school year and September 15 for each school year thereafter. The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the auditors of the financial accountability office of the Department of Education determine that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law



or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The Department of Education may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the Department of Education by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the Department of Education pursuant to subdivision (e)(2) of this section, provided that the Department of Education has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The Department of Education shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19-5-602(c) from any county whose county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the Department of Education and the Assessment Coordination Department; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination Department.

(2) The information transmitted to the Department of Education and the Assessment Coordination Department shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

Ex. Sess.), No. 28, § 1; 2006 (1st Ex. Sess.), No. 29, § 1; 2007, No. 617, § 22; 2007, No. 858, § 1; 2009, No. 1469, §§ 12, 13; 2011, No. 989, § 72.

**Amendments.** The 2007 amendment by No. 617 substituted "education service" for "educational service" in (a)(3)(A).

The 2007 amendment by No. 858 added (d)(1)(B)(ii).

The 2009 amendment rewrote (a)(1); and substituted "August 31" for "September 15" in (d)(1)(B)(i).

The 2011 amendment substituted "September 15" for "August 1" in (a)(3)(A).

### **6-20-2203. Uniform budget and accounting system required.**

(a)(1) The State Board of Education shall adopt by rule a uniform budget and accounting system that shall be known as the "Arkansas Educational Financial Accounting and Reporting System".

(2) This system shall establish and implement the process and procedures for financial reporting as required by this subchapter for school districts, education service cooperatives, and open-enrollment public charter schools.

(3)(A) Pursuant to § 6-20-2207, the Department of Education shall establish and implement a uniform chart of accounts known as the "Arkansas Financial Accounting Handbook" or the "Arkansas Handbook".

(B) The Arkansas Handbook shall be incorporated by reference into the rules governing the Arkansas Educational Financial Accounting and Reporting System.

(C) However, the Arkansas Handbook shall be exempt from the rule-making process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The rules shall be developed by the state board in cooperation with the department, representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School System, 2003 Edition (NCES 2004-318), and may thereafter be revised by the department as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

(c) In addition, the rules or the Arkansas Handbook shall include, but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2) Categories and descriptions of expenditures that each public school or school district shall report on its annual school performance report authorized by the School Performance Report Act, § 6-15-1401 et seq. The reported expenditures shall include, but not be limited to, the following categories:

(A) Total expenditures;

(B) Instructional expenditures;



(C) Administrative expenditures;  
(D) Extracurricular expenditures;  
(E) Capital expenditures;  
(F) Debt service expenditures; and  
(G) Expenditures of court-ordered desegregation funding;  
(3)(A) Categories and descriptions of public school and school district expenditures that allow for the gathering of data on separate functions and programs provided by law, including without limitation the following expenditures:

- (i) Athletic expenditures;
- (ii) Student transportation expenditures;
- (iii) School district level administrative costs;
- (iv) School level administrative costs;
- (v) Instructional facilitators;
- (vi) Supervisory aides;
- (vii) Substitutes;
- (viii) Property insurance; and
- (ix) Expenditures of court-ordered desegregation funding.

(B) The department shall implement the expenditure categories in this subdivision (c)(3) beginning with the 2007-2008 school year;

(4)(A) Categories and descriptions of public school and school district expenditures that allow for the tracking of expenditures from the following sources of revenue:

- (i) Student growth;
- (ii) Declining enrollment;
- (iii) Special education catastrophic occurrences;
- (iv) Special education services;
- (v) Technology grants;
- (vi) Debt service funding supplement;
- (vii) General facilities funding;
- (viii) Distance learning;
- (ix) Gifted and talented; and
- (x) Court-ordered desegregation funding.

(B) The department shall complete a trial implementation of the revenue categories in subdivisions (c)(4)(A)(i) and (ii) of this section by the end of the 2007-2008 school year and fully implement all revenue categories in this subdivision (c)(4) beginning with the 2008-2009 school year;

(5)(A) Categories and descriptions of student management coding, including without limitation:

- (i) Number of students transported; and
- (ii) Daily route mileage.

(B) The department shall implement this subdivision (c)(5) beginning with the 2007-2008 school year;

(6)(A) Categories and descriptions of restricted fund balances that provide documentation of the purpose for the restriction.

(B) The department shall implement this subdivision (c)(6) beginning with the 2007-2008 school year;



(7) Categories and descriptions of expenditures that each education service cooperative shall report on its annual report authorized by law; and

(8)(A) Rules relating to computing error rates in coding and reporting financial information under the system and penalties to focus on areas needing improvement.

(B) The department shall implement this subdivision (c)(8) beginning with the 2007-2008 school year.

(d) The Arkansas Handbook shall contain appropriate format and codes for expenditures for education service cooperatives.

(e) The department shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, school district, or education service cooperative is correctly and accurately reporting expenditures.

(f) By February 15 of each year, the department shall submit a report to the state board, the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education concerning public school and public school district expenditures required by law.

**History.** Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 1006, § 1; 2011, No. 701, §§ 3-5. added present (c)(4) through (c)(6) and (c)(8); and redesignated former (c)(4) as (c)(7).

**Amendments.** The 2007 amendment inserted "public" in (c)(2); rewrote (c)(3); The 2011 amendment added (c)(2)(G), (c)(3)(A)(ix), and (c)(4)(A)(x).

## **6-20-2208. Monitoring of expenditures.**

(a)(1) The General Assembly determines that, although funds may be distributed to school districts under this subchapter, it is the duty and responsibility of the State of Arkansas to monitor such expenditures to ensure that each public school child in Arkansas is provided with an adequate education.

(2) The General Assembly further finds that a uniform system of accounting for and reporting expenditures is necessary to allow the state to monitor expenditures.

(b) Each school district shall ensure that funds distributed by the State of Arkansas to the district are utilized in an efficient manner in order to provide an adequate education.

(c) Each school district shall:

(1) Expend sums for teacher salaries in order to meet the requirements of Arkansas law;

(2)(A) Expend the sums allocated to the school district under § 6-20-2305(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district unless other expenditures are allowed by law or rule of the State Board of Education or the Department of Education.

(B) Further ensure that those sums are used to improve the educational opportunity of those children with a primary emphasis on improving each student's proficiency;

(3) Expend other sums as may be allocated under this subchapter and as may be required by law in order to provide an equal opportunity for an adequate education;

(4) Ensure that sums appropriated by law and allocated to the school district are used to meet standards for accreditation and to provide the required curriculum for all students in the school district;

(5) Ensure that sums allocated for facilities or other capital needs are spent in accordance with law; and

(6) Expend state and local revenues on gifted and talented programs:

(A) In an amount equal to fifteen hundredths (0.15) of the foundation funding amount multiplied by five percent (5%) of the school district's average daily membership for the previous year; and

(B) Only upon gifted and talented programs in accordance with rules promulgated by the state board.

(d)(1) During the appropriate Arkansas public school computer network reporting cycle each year, each school district shall submit appropriate data to the department establishing the school district's compliance with this section.

(2) The data shall be timely, accurate, and in the format required by rules promulgated by the state board.

(3) The data reported shall reflect the expenditure of each category of additional education categories.

(4) Reports for each school district shall be developed by the department and transmitted to the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education.

**History.** Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2009, No. 376, § 42. in (c)(2)(A), substituted "§ 6-20-2305(b)" for "§ 6-20-2005(b)" and made a minor stylistic change.

**Amendments.** The 2009 amendment,

## SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

### SECTION.

6-20-2303. Definitions.

6-20-2305. School funding.

6-20-2306. Department of Education to

provide funding — Adjustments for overpayments.

**Effective Dates.** Acts 2009, No. 965, § 2: Apr. 6, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funding it is entitled to

and is not penalized for irregularities in the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the



Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1186, § 2: Apr. 7, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funds it is entitled to and is not penalized for irregularities in the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1397, § 10: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state’s public school children receive an equal opportunity for an adequate education; that the timely and accurate collection and reporting by counties of the proceeds generated from the uniform rate of tax is necessary to ensure educational adequacy; that the Treasurer of State, the Department of Education, the Assessment Coordination Department, and the counties need to implement the reporting process required under this act so that timely and accurate calculations for public school funding will be made before the beginning of the 2009-2010 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1450, § 2: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the obligation of the state to provide a substantially equal opportunity for an adequate education to the public students of this state; that public school district miscellaneous funds as defined by § 6-20-2303 are part of the foundation funding the General Assembly has determined is necessary to provide an adequate education; that the calculation of miscellaneous funds as amended by Senate Bill No. 814 of 2009 will cause some school districts to receive less state foundation funding aid than is needed for the 2008-2009 school year; and that this act is immediately necessary to ensure that the method of calculating miscellaneous funds used by the Department of Education will result in the correct calculation of the amount of state foundation funding aid to school districts for the 2008-2009 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”



Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1039, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to public schools and school districts; and that this

act is immediately necessary so that public schools and school districts will receive the amount of funding provided under this act for the 2011-2012 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state's public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

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## 6-20-2303. Definitions.

As used in this subchapter:

(1) "Additional education categories" means state funds distributed to school districts for alternative learning environments, English-language learners, national school lunch students, and professional development;

(2) "Alternative learning environment" means a student intervention program in compliance with § 6-48-101 et seq. that seeks to eliminate traditional barriers to learning for students;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days

actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) In those instances in which the average daily membership for less than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who:

(a) Reside within the boundaries of the school district;

(b) Are enrolled in a public school operated by the school district; and

(c) Are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(ii)(a) Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement.

(b) This subdivision (3)(C)(ii) shall apply even if the students enrolled in an out-of-state school are not enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iii) Legally transferred students living outside the school district but are:

(a) Attending a public school in the school district under a provision of the Arkansas Code; and

(b) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iv) Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or

(v) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program.

(D)(i) Except for those circumstances otherwise allowed by law or rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(ii) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the first day of the school semester.

(E)(i) Except as otherwise provided by law, a public school district or open-enrollment public charter school that teaches a distance learning course to one (1) or more home school or private school



students shall be eligible for an amount equal to one-sixth ( $\frac{1}{6}$ ) of the state foundation funding amount per distance learning course for each private school student or home school student who is:

(a) Residing within the school district where the public school or open-enrollment public charter school is located; and

(b) Physically attending the distance learning course or courses on the campus of the public school district or open-enrollment public charter school.

(ii) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership regardless of the number of distance learning courses received by a particular home school or private school student;

(4) "Classroom teacher" means:

(A) An individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian;

(5) "English-language learners" means students identified by the state board as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of the current school year, which assessments measure oral, reading, and writing proficiency;

(6) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student;

(7) "Gifted and talented programs" means academic curricula, courses, and options designed to improve educational opportunities for gifted and talented students pursuant to guidelines adopted by the state board in accordance with § 6-42-106;

(8) "Gifted and talented students" means those students who have been identified as meeting the criteria of the gifted program approval standards established by the state board;

(9) "Legal revenues" means those revenues received or cash balances carried forward by a school district and used to make payments from:

(A)(i) The teacher's salary fund, which means the set of accounts used to record the receipts and expenditures for payment of salaries for certified personnel, certified substitutes, tuition, and fringe benefits as defined by § 6-17-908.

(ii) Certified personnel salaries from federal programs are excluded;

(B) The operating fund, which means the set of accounts used to record the receipts and expenditures for current operating expenses other than those that relate to the purposes set out for other funds; and



(C) The debt service fund, which means the set of accounts used to record local tax receipts and expenditures for the retirement of commercially bonded debt;

(10) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904 for the tax year used in a calculation made under this subchapter;

(11)(A) "Miscellaneous funds" means the average of those funds collected in the five (5) school years immediately preceding the previous school year:

(i) Consisting of:

(a) Funds received by a school district from federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes; and

(b) Funds received by the school district in lieu of taxes, and local sales and use taxes dedicated to education under § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq.; and

(ii) Multiplied by the ratio of the uniform rate of tax to the school district's total millage rate in effect as of January 1 of the fiscal year prior to the current funding year.

(B) If the school district did not receive funds from a source of funds listed in subdivision (11)(A) of this section during the most recent school year used to calculate the five-year average, then previous collections from that source of funds shall not be included in the five-year average.

(C) For the purpose of calculating the amount of miscellaneous funds of a school district under this subdivision (11), a school year is the period beginning on July 1 of a calendar year and ending on June 30 of the next calendar year.

(D) For the 2008-2009 school year, miscellaneous funds used to calculate the state foundation funding aid for a school district will be the same as those used to calculate the state foundation funding aid for the school district for the 2007-2008 school year;

(12)(A) "National school lunch students" means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as determined on October 1 of each previous school year and submitted to the Department of Education, unless the school district is identified by the Department of Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

(B) If the school district is participating under 42 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a school district's annual percentage of national school lunch students shall be equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and meal counts were taken by type;

(13) "Net revenues" means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district;

(14) "Previous year" or "previous school year" means the school year immediately preceding the school year or fiscal year in which funds are allocated;

(15)(A) "Professional development" means a coordinated set of planned learning activities for teachers and administrators that are standards-based.

(B) Professional development shall result in individual, school-wide, and systemwide improvement designed to ensure that all students demonstrate proficiency in the state academic standards;

(16) "Quarterly average daily membership" means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the Department of Education;

(17)(A) "Revenues" means the proceeds generated from ad valorem taxes and distributed to a school district by a county treasurer from January 1 through December 31 of the calendar year immediately preceding the beginning of the current school year, including:

(i) The amount of the final distribution of ad valorem taxes to a school district as shown on the final tax settlement of the county under § 26-39-402 for the calendar year immediately preceding the beginning of the current school year;

(ii)(a) Delinquent ad valorem taxes distributed to a school district in the calendar year immediately preceding the beginning of the current school year.

(b) Delinquent ad valorem taxes include the penalties and interest that are distributable to a school district under existing law;

(iii) The actual amount of homestead tax credit distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(iv) Excess commissions distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(v) Interest earned on any tax funds held in trust and distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(vi) Ad valorem tax proceeds from land redemptions distributed to a school district in the calendar year immediately preceding the beginning of the current school year; and

(vii) A subtraction of all costs and commissions authorized by law relating to the collection of ad valorem taxes that the county deducted from distributions to a school district in the calendar year immediately preceding the beginning of the current school year;

(18) "School district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem



property taxes under Title 26 of the Arkansas Code, which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title;

(19) "Secondary vocational area center" means a public secondary vocational institution organized for the specific purpose of educating high school students in specific occupational or vocational areas and serving students from more than one (1) participating school district;

(20) "Special education catastrophic occurrences" means individual cases in which special education and related services required by the individualized education program of a particular student with disabilities are unduly expensive, extraordinary, or beyond the routine and normal costs associated with special education and related services provided by a school district and funding is pursuant to rules promulgated by the state board;

(21) "State foundation funding aid" means the amount of state financial aid provided to each school district and computed as the difference between the foundation funding amount established by the General Assembly and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district;

(22) "Student growth funding" means the amount of state financial aid provided to each school district from funds made available for the growth in the average daily membership for the school district;

(23) "Teachers of the gifted and talented" means individuals certified by the state board to teach gifted and talented students;

(24) "Technology" means any equipment for instructional purposes that is electronic in nature, including, but not limited to, computer hardware, computer software, Internet connectivity, and distance learning; and

(25) "Uniform rate of tax" means a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, utility, and regulated carrier property in the state to be used solely for the maintenance and operation of the public schools as required by Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendments 11, 40, and 74.

**History.** Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 1; 2007, No. 272, § 2; 2007, No. 461, § 1; 2007, No. 825, § 1; 2009, No. 154, § 1; 2009, No. 1397, §§ 1-3; 2009, No. 1450, § 1; 2009, No. 1469, §§ 14, 15; 2011, No. 989, § 73; 2011, No. 1118, § 3.

**Amendments.** The 2007 amendment by No. 272 rewrote (11); substituted "department" for "deparment" in (12)(A); deleted (12)(B)(ii) and former (19)(B); deleted "except for the 2005-2006 school

year as explicated in subdivision (12)(B)(ii) of this section" following "type" in (12)(B); inserted present (13), (16) and (17) and redesignated the remaining subdivisions accordingly; substituted "the miscellaneous" for "seventy-five percent (75%) of miscellaneous" in present (21); and substituted "the growth in the average daily membership for the school district" for "that purpose" in present (22).

The 2007 amendment by No. 461 deleted former (19)(B); and substituted "the



growth in the average daily membership for the school district" for "that purpose" in present (22).

The 2007 amendment by No. 825 incorporated the amendments by Acts 2007, No. 272; added present (11)(B); and redesignated former (11)(A) and (B) as (11)(A)(i) and (ii).

The 2009 amendment by No. 154 redesignated (11)(A); inserted (11)(A)(ii); and made related and stylistic changes.

The 2009 amendment by No. 1397 added "for the tax year used in a calcula-

tion made under this subchapter" in (10); and rewrote (13) and (17).

The 2009 amendment by No. 1450 inserted (11)(C).

The 2009 amendment by No. 1469 rewrote (3)(C) and (11).

The 2011 amendment by No. 989 inserted present (3)(C)(ii) and redesignated the remaining subdivisions accordingly.

The 2011 amendment by No. 1118 substituted "§ 6-48-101 et seq." for "§ 6-18-508 and 6-18-509" in present (2); and deleted former (2)(B).

## 6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the difference between the foundation funding amount pursuant to subdivision (a)(2) of this section and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district.

(B) The Department of Education shall distribute state foundation funding aid to each school district in eleven (11) equal monthly payments.

(2)(A) For the 2011-2012 school year, the foundation funding amount is equal to six thousand one hundred forty-four dollars (\$6,144) multiplied by the school district's average daily membership for the previous school year.

(B) For the 2012-2013 school year, the foundation funding amount is equal to six thousand two hundred sixty-seven dollars (\$6,267) multiplied by the school district's average daily membership for the previous school year.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; or

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subsection (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A) By the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education shall distribute to the school district the difference between:

(i) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C)(i) Data to verify the timely receipt of revenues applicable to the required ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district shall be received annually by the Department of Education under § 26-80-101(b)(4)(A)(ii).

(ii)(a) Data may be appropriately adjusted by the Department of Education if it is determined that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The Department of Education may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Department of Education.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(5) of this section.

(2)(A)(i) For the 2011-2012 school year, alternative learning environment funding shall be four thousand one hundred forty-five dollars (\$4,145) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) For the 2012-2013 school year and each school year thereafter, alternative learning environment funding shall be four thousand two hundred twenty-eight dollars (\$4,228) multiplied by the number of



identified alternative learning environment students enrolled during the previous school year.

(iii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i) Beginning with the 2007-2008 school year, secondary vocational area center funding shall be three thousand two hundred fifty dollars (\$3,250) multiplied by the number of students enrolled in a secondary vocational area center during the previous school year.

(ii) Funding for students in secondary vocational area centers shall be distributed based on rules promulgated by the State Board of Career Education.

(3)(A) For the 2011-2012 school year, funding for students who are identified as English-language learners shall be two hundred ninety-nine dollars (\$299) for each identified English-language learner.

(B) For the 2012-2013 school year and each school year thereafter, funding for students who are identified as English-language learners shall be three hundred five dollars (\$305) for each identified English-language learner.

(C) Funding for English-language learners shall be distributed to school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(D) Funds allocated for English-language learners to school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(4)(A) National school lunch state categorical funding for each identified national school lunch student shall be as follows:

(i) For a school district in which ninety percent (90%) or greater of the previous school year's enrolled students are national school lunch students, the amount of per-student national school lunch state categorical funding shall be one thousand five hundred eighteen dollars (\$1,518) for the 2011-2012 school year, and one thousand five hundred forty-nine dollars (\$1,549) for the 2012-2013 school year and for each school year thereafter;

(ii) For school districts in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, the amount of per-student national school lunch state categorical funding shall be one thousand twelve dollars (\$1,012) for the 2011-2012 school year, and one thousand thirty-three dollars (\$1,033) for the 2012-2013 school year and for each school year thereafter; and

(iii) For school districts in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, the amount of per student national school lunch state categorical funding shall be five hundred six dollars (\$506) for the



2011-2012 school year, and five hundred seventeen dollars (\$517) for the 2012-2013 school year and each school year thereafter.

(B)(i)(a) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, national school lunch state categorical funding under this subdivision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(12)(A).

(b) If the school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(12)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student national school lunch state categorical funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

(ii)(a) If a school district will receive in the current school year national school lunch state categorical funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of national school lunch state categorical funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the department shall adjust the funding to the school district in a transitional three-year period.

(b) The amount of national school lunch state categorical funding under this subdivision (b)(4)(B)(ii) shall be increased or decreased in each year of a three-year transition period by one-third ( $\frac{1}{3}$ ) of the difference between the amount of national school lunch state categorical funding per student for the current year and the amount of national school lunch state categorical funding per student for the immediately preceding year, adjusted for changes to the funding rates in § 6-20-2305(b)(4)(A).

(iii)(a) The Department of Education shall establish rules to implement the transitional national school lunch state categorical funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include the methods of transition for a school district that:

(1) Experiences a decrease in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section;

(2) Experiences an increase in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section; or

(3) Within a three-year transition period, experiences both a decrease and an increase in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section;

(iv) Under no circumstances shall a school district be entitled to receive more or less funding as a result of the transitional process than the school district is otherwise entitled to receive under this subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the school district's entire student population.

(v)(a) A school district that has experienced a significant growth in enrolled students in the previous three (3) years shall receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Department of Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Department of Education shall not be required to adjust or fund a school district's national school lunch students based on the current year's number of national school lunch students enrolled in the school district or the average growth of students in the school district.

(C)(i)(a) The State Board of Education shall establish by rule a list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended.

(b) School districts shall expend funds allocated under this subdivision (b)(4) only on the programs or purposes on the State Board of Education's list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended, which shall include, but are not limited to:

(1) Classroom teachers, provided that the school district meets the minimum salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4) and that those teachers are used for the purposes delineated in this subdivision (b)(4);

(2) Before-school academic programs and after-school academic programs, including transportation to and from the programs;

(3) Prekindergarten programs coordinated by the Department of Human Services;

(4) Tutors, teachers' aides, counselors, social workers, nurses, and curriculum specialists;

(5) Parent education;

(6) Summer programs;

(7) Early intervention programs;

(8) Materials, supplies, and equipment, including technology used in approved programs or for approved purposes;



(9) Federal child nutrition programs, to the extent necessary to provide school meals without charge to all students under the United States Department of Agriculture Special Assistance Alternative "Provision 2" program under 42 U.S.C. § 1759a, as it exists on July 1, 2011;

(10) Federal child nutrition programs, to the extent necessary to provide school meals without charge to students otherwise eligible for reduced-price meals under the United States Department of Agriculture's National School Lunch Program or School Breakfast Program;

(11) Expenses directly related to funding a longer school day;

(12) Expenses directly related to funding a longer school year;

(13) Partnering with local institutions of higher education to remediate students while those students are still in high school so that the students are college and career ready upon graduation from high school;

(14) Teach For America professional development;

(15) Implementing components of the Arkansas Advanced Initiative for Math and Science; and

(16) College and Career Coaches, as administered by the Department of Career Education.

(ii) School districts that have met the needs of students for whom the funding is provided for additional educational categories under this subsection and that have excess national school lunch student categorical funds provided under this subdivision (b)(4) may use the excess national school lunch student categorical funds to supplement all classroom teacher salaries under the following conditions:

(a) The school district shall not use any portion of the national school lunch student categorical funds that are carry forward or reserve funds to supplement classroom teacher salaries;

(b) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(c) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., and the Arkansas Fiscal Assessment and Accountability Program under § 6-20-1901 et seq. without using national school lunch student categorical funds; and

(d) The school district shall agree that it shall not allocate or use any excess national school lunch student categorical funds in any manner except as a bonus to the salary of classroom teachers.

(iii) The school district shall include with its comprehensive school improvement plan a written detailed statement concerning how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in subdivision (b)(4)(C)(ii) of this section.

(iv)(a) Upon review of the school district's comprehensive school improvement plan, if the Commissioner of Education determines that



the school district has met the needs of students in the school district for whom the funding for additional educational categories this subsection is provided, has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section, and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district.

(b) The school district shall not use its excess national school lunch categorical funds for classroom teacher salaries as provided in subdivision (b)(4)(C)(ii) of this section unless:

(1) The commissioner provides the written approval required under subdivision (b)(4)(C)(iv)(a) of this section; and

(2) Funds allocated under this subdivision (b)(4) are available.

(v) The excess national school lunch student categorical funds used to supplement the salary of a classroom teacher shall only be used as a nonrecurring bonus to a classroom teacher's salary for any given school year and shall not be considered a permanent obligation under the school district's teacher salary schedule or as contract obligations of any classroom teacher or employee of the school district.

(vi) Notwithstanding any other provision of law, if the Department of Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(vii) The Department of Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(viii)(a) By September 15 of each school year, a school district shall submit to the Department of Education a report for the immediately preceding school year listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education on the use of funds allocated under this subdivision (b)(4).

(b) The Department of Education shall develop appropriate reporting forms for use by school districts to comply with subdivision (b)(4)(C)(viii) of this section.

(ix) Beginning with the 2007-2008 school year and each school year thereafter, any school district that used or applied restricted national school lunch student categorical funds as a supplement for salaries of classroom teachers in a school district during the 2006-2007 school year under former § 6-20-2305 (b)(4)(C)(i)(b) [repealed] shall either:

(a) Remove the use of all national school lunch student categorical funds immediately as a supplement to classroom teacher salaries; or

(b) Begin the process of removing the use or application of national school lunch student categorical funds as part of an obligated salary schedule in the following manner:

(1) A school district shall reduce each current school year by twenty percent (20%) the amount of national school lunch student categorical funds received and used in the prior school year by the school district as a supplement to classroom teacher salaries and shall continue this reduction in the application of national school lunch student categorical funds as a supplement to classroom teacher salaries until the school district has no more than twenty percent (20%) of the total of any current year of all national school lunch student categorical funds received by a school district applied and used as a supplement to classroom teacher salaries for a current school year;

(2) No school district shall be allowed to use or consider reserve or carry forward national school lunch student categorical funds as a supplement to classroom teacher salaries;

(3) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(4) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., without using national school lunch categorical funds;

(5) The school district shall include with its comprehensive school improvement plan a written detailed narrative or plan concerning how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in this subdivision (b)(4)(C)(ix);

(6) Upon review of the school district's comprehensive school improvement plan, if the commissioner determines that the school district has met or is meeting the needs of students in the school district for which the funding for additional educational categories under this subdivision (b)(4)(C)(ix) and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district; and

(7) Upon review of the school district's comprehensive school improvement plan and other indicators, if the commissioner determines that a school district has not met the needs of students that may be served with national school lunch student categorical funds, the commissioner may require that any and all national school lunch categorical funds dedicated for use or application in the teacher salary fund shall be removed from and not used to meet the classroom teacher salary obligation and redirected and applied to meet the needs of students in a school district.

(x) Each school district shall submit to the Department of Education a report listing each program and purpose upon which funds allocated under this subdivision (b)(4) were expended, the amount



expended, and any other information required by the Department of Education concerning the receipt and use of funds allocated under this subdivision (b)(4).

(xi) No provision of subdivision (b)(4)(C)(ix) of this section shall be deemed to prohibit a school district from participating in the provisions of subdivisions (b)(4)(C)(ii)-(viii) of this section.

(xii) The Department of Education shall promulgate rules and develop appropriate reporting forms for use by school districts to comply with this subdivision (b)(4)(C).

(D)(i) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education.

(ii) The Department of Education shall develop appropriate reporting forms for use by school districts.

(E)(i) The Department of Education shall provide a report on the impact of national school lunch student categorical funding provided under this subdivision (b)(4) on closing the achievement gap to the House Committee on Education and the Senate Committee on Education by May 31 each even-numbered year, beginning in 2010.

(ii) The report shall include information broken down by category as described in subdivision (b)(4)(A) of this section on:

(a) How school districts are spending national school lunch student categorical funds, including specific programs utilized by school districts;

(b) The amount of national school lunch student categorical funds transferred to another categorical fund, including an explanation of why the national school lunch student categorical funds were transferred; and

(c) The analysis of student achievement data evaluated in student achievement growth models as defined under § 6-15-435 shall be expanded to include the evaluation of the best estimates of classroom, school, and school district effects on narrowing the achievement gap, in addition to the examination of student progress based on established value-added longitudinal calculations.

(iii) The report shall be included in the General Assembly's biennial adequacy study to evaluate the adequacy of education in the state.

(F)(i) By June 30, 2012, and by June 30 of each year thereafter, a school district shall spend a minimum of eighty-five percent (85%) of the school district's annual national school lunch state categorical funding allocation as provided under subdivision (b)(4)(C) of this section.

(ii) A school district that on June 30, 2012, has a national school lunch state categorical funding balance in excess of fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation shall reduce its total



national school lunch state categorical funding balance by at least ten percent (10%) each year so that by June 30, 2022, and by June 30 of each year thereafter, the school district has a balance of no more than fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation.

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Department of Education waive the requirements of this subdivision (b)(4)(F).

(b) A school district seeking a waiver shall file a waiver request with the commissioner, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

(iv) The commissioner may grant a waiver request under this subdivision (b)(4)(F) for up to one (1) year if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.

(v)(a) The Department of Education shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(F).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(F) during a school year, the Department of Education may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(F).

(c) The Department of Education may redistribute amounts withheld under this subdivision (b)(4)(F) to other school districts entitled to receive national school lunch state categorical funding allocations. (5)(A) For the 2011-2012 school year, professional development funding shall be equal to an amount of up to fifty-one dollars (\$51.00) multiplied by the school district's previous school year average daily membership.

(B) For the 2012-2013 school year and each school year thereafter, professional development funding shall be equal to an amount of up to fifty-two dollars (\$52.00) multiplied by the school district's previous school year average daily membership.

(C) Funding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that:

- (i) Improve the knowledge, skills, and effectiveness of teachers;
- (ii) Address the knowledge and skills of administrators and para-professionals concerning effective instructional strategies, methods, and skills;

(iii) Lead to improved student academic achievement; and

(iv) Provide training for school bus drivers as outlined in rules promulgated by the State Board of Education.

(c) Isolated funding under § 6-20-601, student growth funding, and special education-catastrophic occurrences funding shall be funded as follows:

(1) Isolated funding and special education-catastrophic occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2)(A) Student growth funding is calculated as the sum of the following amounts:

(i) One-quarter ( $\frac{1}{4}$ ) of the per student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(a) The school district's quarterly average daily membership for the first quarter of the current school year over average daily membership of the previous school year;

(b) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year;

(c) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year; and

(d) The school district's quarterly average daily membership for the fourth quarter of the current school year over the average daily membership of the previous school year; and

(ii) Excluding any increase resulting solely from consolidation or annexation with another school district.

(B) The Department of Education shall:

(i) By January 31 of each year:

(a) Calculate an amount of student growth funding under subdivision (c)(2)(A) of this section using the quarterly average daily membership for the first quarter and an estimation of the average daily membership for the second, third, and fourth quarters; and

(b) Distribute to the school district not less than sixty percent (60%) of the amount calculated under subdivision (c)(2)(B)(i)(a) of this section;

(ii) By April 30 of each year, distribute to the school district forty percent (40%) of the amount calculated under subdivision (c)(2)(B)(i)(a) of this section;

(iii)(a) By July 31 of each year, calculate the amount of student growth funding under subdivision (c)(2)(A) of this section using the actual quarterly average daily membership for all four (4) quarters of the applicable school year.

(C) By August 31 of the fiscal year in which the student growth funding is received, if the amount under subdivision (c)(2)(B)(iii)(a) of this section is:

(1) More than the amount under subdivision (c)(2)(B)(i)(a) of this section, the Department of Education shall distribute the difference to the school district; or

(2) Less than the amount under subdivision (c)(2)(B)(i)(a), the school district shall refund the difference to the Department of Education.

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e)(1) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(A) The students within each category of special needs for which the funds were allocated;

(B) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(C) If the Department of Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Department of Education.

(2) On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce the total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

(3) A school district may transfer funds received from any categorical fund source to another categorical fund source.

(4)(A) The Department of Education shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the Department of Education may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The Department of Education may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:



(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Department of Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and regulations promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its certified employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the Department of Education.

(C) After the school term has ended, the superintendent of the school district shall:

(1) Keep the original attendance records on file for a period of three

(3) school years; and

(2) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Department of Education.

(2) The Department of Education shall develop appropriate reporting forms for use by school districts.

**History.** Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2; 2009, No. 965, § 1; 2009, No. 1186, § 1; 2009, No. 1369, § 1; 2009, No. 1397, § 4; 2009, No. 1469, §§ 16, 17; 2009, No. 1474, § 1; 2009, No. 1501, § 1; 2011, No. 633, § 1; 2011, No. 981, § 12; 2011, No. 993, § 2; 2011, 1039, §§ 2-4; 2011, No. 1209, § 9; 2011, No. 1220, §§ 1-4.

**A.C.R.C. Notes.** Acts 2011, No. 633, § 2, provided: "Data received by the Department of Education under § 6-20-2305(a)(4)(C) may be appropriately adjusted by the department if it is determined that distributions reported on the county treasurer's annual summary report for the 2011 calendar year submitted by January 31, 2012, were also accounted for on the 2010 county tax settlement report template submitted by February 15, 2011, for collections made during the 2010 calendar year. Evidence of overlapping revenue reporting or irregular distributions shall be provided in

the form required by the Department of Education.”

Pursuant to Acts 2011, No. 981, § 19, § 6-20-2305(a)(4)(A)(i) is set out above as amended by Acts 2011, No. 633, § 1. Acts 2011, No. 981, § 19, read as follows: “The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Eighth General Assembly. All such acts shall have the full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.”

Acts 2011, No. 1039, § 1, provided: “The General Assembly finds that:

“(1) In “A Report on Legislative Hearings for the 2010 Interim Study on Educational Adequacy”, the interim House Committee on Education and the interim Senate Committee on Education found that the transportation funding provided in foundation funding is sufficient to meet the State of Arkansas’s adequacy requirements with regard to student transportation. They went on to recommend, however, a distribution of funding through an enhanced transportation funding formula for certain school districts that may have high transportation costs. The committees further recommended that money to fund this new program be found by reducing, in part, a recommended increase in foundation funding. The committees made clear in the 2010 interim study report that this recommended enhanced transportation funding was found to be over and above what was required for adequacy;

“(2) In the previous biennium, in “A Report on Legislative Hearings for the 2008 Interim Study on Educational Adequacy”, the committees found that student transportation may be a necessary component for providing students with an equitable opportunity for an adequate education to the extent that a student would not otherwise be able to realize this opportunity but for such transportation being provided by the state. Analyzing what portion of student transportation is required for adequacy purposes is a highly complex, fact-intensive study. It requires analysis of many factors such as student characteristics, bus routes taken, route miles, and a myriad of other factors.

Nonetheless, it is clear from “The Resource Allocation of Foundation Funding for Arkansas School Districts,” August 23, 2008, Bureau of Legislative Research, and the 2010 interim study report that the evidence gathered by the committees demonstrated that the amount of revenue provided in foundation funding is sufficient to fund the overall adequacy needs of all school districts;

“(3) The 2010 interim study report recommends, essentially, removing a portion of transportation funding contained in the resource matrix used to determine necessary foundation funding levels, and using those funds to provide revenue for transportation to some, but not all, school districts for a program that is not required to maintain educational adequacy; and

“(4) The foundation funding formula and the resource matrix on which the foundation funding formula is based have served the state well since they were first used. The formula and the matrix provide a clear, transparent, and easy to understand method for analyzing state funding needs for districts, while allowing districts the flexibility to use such funds to more closely meet unique district needs. The committees’ recommendation that the General Assembly depart from this approach jeopardizes this method for determining and meeting school district adequacy needs, a method that the Supreme Court found to be constitutional in 2004 and in 2007. Accordingly, the General Assembly finds and determines that the foundation funding formula and the resource matrix upon which it is built should be maintained and declines to adopt the enhanced transportation funding approach recommended in the 2010 interim study report.”

**Amendments.** The 2009 amendment by identical acts Nos. 965 and 1186 added (a)(4)(C).

The 2009 amendment by No. 1369 added (b)(4)(E).

The 2009 amendment by No. 1397 rewrote (a)(4)(A)(i).

The 2009 amendment by No. 1469 rewrote (b)(4).

The 2009 amendment by No. 1474 rewrote (a)(2).

The 2009 amendment by No. 1501 rewrote (c)(2)(B) and added (c)(2)(C).

The 2011 amendment by No. 633 substituted “§ 26-80-101(b)(4)(A)(ii)” for “§



26-26-2004" in (a)(4)(A)(i); in (a)(4)(C)(i), substituted "received" for "collected" and "under § 26-80-101(b)(4)(A)(ii)" for "in cooperation with the Assessment Coordination Department"; and, in (a)(4)(C)(iii), inserted "overlapping revenue reporting or" and "provided."

The 2011 amendment by No. 981 deleted "as reported under § 26-26-2004" following "school district" in (a)(4)(A)(i).

The 2011 amendment by No. 993 redesignated (b)(4)(B)(i)(a) as (b)(4)(B)(i)(a)(1) and added "except as provided under" in the beginning; and added (b)(4)(B)(i)(c).

The 2011 amendment by No. 1209 rewrote (b)(5)(B).

The 2011 amendment by No. 1220 inserted (b)(4)(C)(i)(b)(9) through (b)(4)(C)(i)(b)(16); inserted "in the prior school year" in (b)(4)(C)(ix)(b)(1); inserted (b)(4)(F); and inserted present (e)(2) through (e)(4).

The 2011 amendment by No. 1039, in (a)(2)(A), substituted "2011-2012" for "2009-2010" and "six thousand one hundred forty-four dollars (\$6,144)" for "five thousand nine hundred five dollars (\$5,905)"; in (a)(2)(B), substituted "2012-2013" for "2010-2011" and "six thousand two hundred sixty-seven dollars (\$6,267)" for "six thousand twenty-three dollars (\$6,023)"; deleted former (a)(2)(C); in (b)(2)(A)(i), substituted "For the 2011-2012" for "Beginning with the 2007-2008" and "four thousand one hundred forty-five

dollars (\$4,145)" for "four thousand sixty-three dollars (\$4,063)"; added (b)(2)(A)(ii); redesignated former (b)(2)(A)(ii) as (b)(2)(A)(iii); in (b)(3)(A), substituted "For the 2011-2012" for "Beginning with the 2007-2008" and "two hundred ninety-nine dollars (\$299)" for "two hundred ninety-three dollars (\$293)"; added (b)(3)(B); redesignated former (b)(3)(B) and (b)(3)(C) as present (b)(3)(C) and (b)(3)(D); deleted "Beginning with the 2009-2010 school year" preceding "National school lunch" in (b)(4)(A); substituted "one thousand five hundred eighteen dollars (\$1,518) for the 2011-2012 school year, and one thousand five hundred forty-nine dollars (\$1,549) for the 2012-2013 school year and for each school year thereafter" for "one thousand four hundred eighty-eight dollars (\$1,488)" in (b)(4)(A)(i); substituted "one thousand twelve dollars (\$1,012) for the 2011-2012 school year, and one thousand thirty-three dollars (\$1,022) for the 2012-2013 school year and for each school year thereafter" for "nine hundred ninety-two dollars (\$992)" in (b)(4)(A)(ii); substituted "five hundred six dollars (\$506) for the 2011-2012 school year, and five hundred seventeen dollars (\$517) for the 2012-2013 school year and each school year thereafter" for "four hundred ninety-six dollars (\$496)" in (b)(4)(B)(iii); deleted "Beginning with the 2009-2010 school year" preceding "if a school" in (b)(4)(B)(ii)(a); and rewrote (b)(5).

## CASE NOTES

### Illegale Exaction.

Summary judgment was properly awarded to the Arkansas Governor and state officials in an action claiming that they retained and unlawfully diverted funds derived from property taxes and allocated to the Arkansas Educational Ex-

cellence Trust Fund (EETF) because appellants did not show how the state used EETF funds to supplant its foundation funding aid contribution to reach the amount per student established pursuant to the statute. *Fort Smith Sch. Dist. v. Beebe*, 2009 Ark. 333, 322 S.W.3d 1 (2009).

## 6-20-2306. Department of Education to provide funding — Adjustments for overpayments.

(a) If the Department of Education determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the department may:

- (1) Withhold the overpayment from subsequent state funding;
- (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; or



- (3) Request a refund from the school district in the amount of the overpayment.
- (b) The school district shall comply as directed by the department.

**History.** Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2009, No. 376, § 43.

made a minor stylistic change in the introductory language in (a); and substituted “or” for “and” in (a)(2).

**Amendments.** The 2009 amendment

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT

SECTION.	SECTION.
6-20-2502. Definitions.	6-20-2513. Appeals.
6-20-2503. Bonded debt assistance.	6-20-2516. Academic Facilities Review Board.
6-20-2507. Academic Facilities Partnership Program.	

6-20-2502. Definitions.

- As used in this subchapter:
- (1)(A) “Academic facilities wealth index” means a percentage derived from the following computations:
- (i) Determine the value of one (1) mill per student in each school district as follows:
- (a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and
- (b) Divide the product from subdivision (1)(A)(i)(a) of this section by the greater of the prior year average daily membership of the school district or the prior three-year average of the school district’s average daily membership;
- (ii) Determine student millage rankings by listing the computation under subdivision (1)(A)(i) of this section for each school district from students with the lowest value per mill to students with the highest value per mill;
- (iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill; and
- (iv) Divide the value of one (1) mill per student in each school district as computed under subdivision (1)(A)(i) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(A)(iii) of this section.
- (B) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(B) will not exceed the amount of funding provided for a wealth index of nine hundred ninety-five thousandths (.995).
- (C)(i) The percentage derived from the computation under subdivision (1)(A)(iv) of this section is the academic facilities wealth index

for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under subdivision (1)(C)(i) of this section from one hundred percent (100%);

(2)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The division shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(iii) A leased facility shall not be considered an academic facility for the purpose of this subchapter.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who are eligible to attend and reside within the boundaries of a school district and who are enrolled in the Arkansas



National Guard Youth Challenge Program, so long as the students are participants in the program;

(4) "Facility condition index" means a methodology established by the division for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a public school academic facility containing the same amount of square footage;

(5) "Immediate repair project" means a project involving a public school academic facility that is necessary to resolve a deficiency that presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(6) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state of condition or efficiency that exceeds state academic facilities standards;

(7) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(8) "Maintenance, repair, and renovation" means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that, maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(9) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(10)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes additions to existing academic facilities and new academic facilities;

(11) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation and new construction activities with regard to an academic facility; and

(12) "Space utilization" means the number of gross square feet per student in a public school academic facility adjusted for academic



program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

**History.** Acts 2005, No. 2206, § 1; 2007, No. 727, § 1; 2009, No. 1473, § 9; 2011, No. 1006, §§ 6, 7.

The 2009 amendment added (2)(B)(iii). The 2011 amendment deleted (8)(B); and substituted "current" for "original" near the end of (10)(A).

**Amendments.** The 2007 amendment inserted present (1)(B); redesignated former (1)(B) as (1)(C); and substituted "(1)(C)(i)" for "(1)(B)(i)" in (1)(C)(ii).

### 6-20-2503. Bonded debt assistance.

(a) As used in this section:

(1) "Eligible school district" means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3)(A) "Miscellaneous funds" means funds calculated as follows:

(i) The average of funds collected in the five (5) school years immediately preceding the previous school year that were received by a school district:

(a) From federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes;

(b) In lieu of taxes; and

(c) From local sales and use taxes for capital improvements dedicated to education under § 26-74-201 et seq., § 26-74-301 et seq., and § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq., and

(ii) Multiplied by the ratio of the uniform rate of tax to the school district's total millage rate in effect as of January 1 of the fiscal year prior to the current funding year.

(B) If the school district did not receive funds from a source of funds listed in subdivision (a)(3)(A) of this section during the most recent school year used to calculate the five-year average, then previous collections from that source of funds shall not be included in the five-year average.

(C) For the purpose of calculating the amount of miscellaneous funds of a school district under this subdivision (a)(3), a school year is the period beginning on July 1 of a calendar year and ending on June 30 of the next calendar year;

(4) "Per-student revenue" means the sum of projected revenue from the uniform rate of tax and miscellaneous funds divided by the average daily membership for the school district for the previous school year;

(5) "Projected revenue from the uniform rate of tax" means in each school year ninety-eight percent (98%) of the amount of revenue

available in a school district solely from the levy of the uniform rate of tax; and

(6) "State wealth index" means the result of one (1) minus the ratio derived by dividing per-student revenue by the difference between the per-student foundation funding amount under § 6-20-2305 and per-student revenue.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district's outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the Department of Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) or subdivision (b)(3)(B) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of financial assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the department on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten percent (10%) reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten percent (10%) reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten percent (10%) reduction but was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that financial assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county



assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of state financial assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of state financial assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during fiscal year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B)(i) As used in this subdivision (b)(3)(B), "mandatory callable bonds" means a bond issue in which all net proceeds from debt service millage used to secure the issuance of that bond must be applied to payment of the issue and cannot be used for any other purposes.

(ii) School districts having mandatory callable bonds shall receive an amount of state financial assistance with regard to the mandatory callable bonds proportionate to the amount of state financial assistance provided under subdivision (b)(3)(A) of this section to school districts that do not have mandatory callable bonds.

(C) As the amount of state financial assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any savings through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of state financial assistance for each eligible school district no later than July 15 of each year.

(B)(i) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state financial assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A)(i) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.



(ii) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the financial assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(B) The school district shall use the debt service savings, if any, produced by refunding the outstanding bonds as follows:

(i) The annual savings produced by the refunding shall be deposited into a bond refunding savings fund, to be used by the school district solely for the:

(a) New construction of, capital repairs to, or renovation of academic facilities; or

(b) Purchase of academic equipment; and

(ii) Before the date on which the refunding bonds are sold at public sale, the school district shall certify to the commission that the yearly debt service savings will be used solely for the purposes described in subdivision (c)(1)(B)(i) of this section.

(2)(A) Nothing in this section shall prohibit a school district from issuing second lien bonds.

(B) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be increased or reduced as a result of the issuance of second lien bonds.

(3) Nothing in this subsection shall prevent the annual adjustment of state financial assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the financial assistance described in this section.

(2) The school district receiving financial assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e)(1) The commission shall compute the amount of general facilities funding that each school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district shall receive in accordance with subdivision (e)(2)(B) of this section state financial assistance equal to all or a portion of the general facilities funding that the school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(B) The commission shall phase out state financial assistance under this subsection over a ten-year period by reducing the amount

received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(f)(1) If a school district elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005, the commission shall compute the difference between the amount of supplemental millage incentive funding that a school district received in Fiscal Year 2005 and the amount of debt service funding supplement and general facilities funding that the school district would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district that elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], shall receive in accordance with subdivision (f)(2)(B) of this section state financial assistance equal to all or a portion of the amount of supplemental millage incentive funding that exceeded the amount that the school district would have received under debt service funding supplement and general facilities funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(B) The commission shall phase out the state financial assistance under this subsection over a ten-year period by reducing the amount received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(g)(1)(A) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the department that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance.

(B) If a school district has issued refunding bonds to refund bonds in existence as of January 1, 2005, the school district shall notify the department of the date that the school district's outstanding bonded



indebtedness in existence as of January 1, 2005, would have been satisfied had the bonds not been refunded.

(2)(A) Within thirty (30) days after receiving notification under subdivision (g)(1)(A) of this section, the department shall certify to the commission that all the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied.

(B) Upon acceptance by the commission of the department's certification, state financial participation under this section shall expire.

(h)(1) A school district shall qualify to receive any appropriate supplemental millage incentive funds otherwise available in the public school fund if:

(A) The school district voluntarily raised its maintenance and operation mills only during the 2004-2005 school year in order to have a total millage beyond the twenty-five (25) mills required by the Arkansas Constitution, Amendment 74; and

(B) The school district's property assessment per student is below the state average per student.

(2) The supplemental millage incentive funds shall be available without regard to any other qualifications in law, including without limitation any requirement that a school district must have previously received a debt service funding supplement.

**History.** Acts 2005, No. 2206, § 1; The 2009 amendment rewrote 2007, No. 989, §§ 3-5; 2007, No. 1573, (c)(1)(B)(i). § 33; 2009, No. 1479, § 1; 2011, No. 266, The 2011 amendment rewrote (a)(3) § 1. through (a)(4); and inserted present (a)(5)

**Amendments.** The 2007 amendment and redesignated the remaining subdivision as (a)(6). by No. 1573 added the subsection designated herein as (h).

## **6-20-2507. Academic Facilities Partnership Program.**

(a) There is established the Academic Facilities Partnership Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district's academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the division with a detailed narrative, description, and justification for the project, a drawing, and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district's facilities master plan;

(B)(i) The adoption of a resolution certifying to the division the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector



approval of any bond or tax measures or to apply other local resources to pay the school district's share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The division may waive the minimum requirement under subdivision (b)(1)(C)(i) of this section upon a recommendation by the Director of the Division of Public School Academic Facilities and Transportation to the Commission for Arkansas Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project's conformance with sound educational practices;

(E) The new construction project's compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the division;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) The life-cycles requirement contained in the state facility assessment of 2004 is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The division shall require independent proof of the failure of the equipment or other item.

(c) The division shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

(1) How the school district's facilities master plan and current academic facilities do not address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(2) How the school district's facilities master plan and any new construction project under the facilities master plan address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(3) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the school district;

(4) How the new construction project has been prioritized by the school district; and

(5) The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(d)(1) The division shall notify the school district of the division's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

(2) The division's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the division to provide or not provide state financial participation in support of the new construction project.

(3) The commission may withdraw committed funds if a school district had funding made available on:

(A) July 1, 2006, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2010; or

(B) July 1, 2007, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2011.

(4) If a construction project has not begun as required under subdivision (d)(3) of this section due to the failure of a school district to raise the school district's share of the project cost due to a failed millage



election prior to June 1, 2009, the division may exercise its authority under § 6-21-811.

(e)(1) If the division determines that the new construction project is eligible for state financial participation, the division and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

(2) At a minimum, the agreement shall:

(A) Identify the estimated amount of local financial participation and state financial participation in the new construction project;

(B) Define the method of and schedule for transferring state financial participation funds to the school district;

(C) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and renovation and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the division;

(E) Provide that the division or any person acting on behalf of the division may conduct on-site inspections of the new construction project as frequently as the division deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(F) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(G) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(H) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the new construction project as provided under the agreement.

(3) If a school district fails to adhere to the timelines as established in subsection (g) of this section, the agreement shall be void and the state will have no further obligation to provide state funds to the school district for the new construction project under the agreement.

(f)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6-20-2509.

(2)(A) The commission shall certify the amount to the Department of Education for payment, less any withholding or reduction imposed by



the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(g)(1) The commission shall establish compliance dates for the:

(A) Execution of the partnership agreement;

(B) Start of the project design; and

(C) Start and ending of construction.

(2) Projects not meeting the compliance dates may be cancelled by the commission, and the state's financial participation, in whole or in part, may be declared void after the school district has been provided:

(A) A notice of the failure to meet compliance dates; and

(B) An opportunity for a hearing before the commission.

**History.** Acts 2005, No. 2206, § 1; 2007, No. 625, § 2; 2007, No. 989, §§ 9-11; 2009, No. 376, § 44; 2009, No. 1473, §§ 10-13.

**Amendments.** The 2007 amendment by No. 989 redesignated former (b) as present (b)(1) and redesignated the remaining subdivisions accordingly; substituted "detailed narrative, description, and justification" for "copy of the design plans" in (b)(1); added "that shall be . . . which-ever is less" in (b)(1)(C)(i); added (b)(1)(C)(ii); substituted "the applicable school" for "existing academic facilities" in

present (b)(1)(E); added (b)(2); deleted the former second sentence in (d)(1); added present (f)(1)(B); redesignated former (f)(1)(B) as present (f)(2)(A); and redesignated former (f)(2) as present (f)(2)(B).

The 2009 amendment by No. 376, in (b)(1)(C)(ii), substituted "Commission for Arkansas" for "Commissioners for the Division of," and made minor stylistic changes.

The 2009 amendment by No. 1473 inserted "a drawing" in the introductory language of (b)(1); rewrote (d); and added (e)(3) and (g).

## 6-20-2513. Appeals.

(a) A public school district may appeal:

(1) A determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Academic Facilities Review Board in accordance with procedures developed by the board under § 6-20-2516; and

(2)(A) A decision of the board to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(B) The public school district shall provide to the board a copy of the request for appeal when it files the request with the commission.

(b) All decisions of the commission resulting from a public school district's appeal of a decision of the board under this subchapter shall be final and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 2005, No. 2206, § 1; 2009, No. 937, § 1; 2011, No. 981, § 13; 2011, No. 1006, § 4.

**Amendments.** The 2009 amendment rewrote (a); in (b), inserted “public” and substituted “decision of the board” for “division determination”; and added (c).

The 2011 amendment by No. 981 redesignated former (a)(2) and (3) as (a)(2)(A) and (a)(2)(B).

The 2011 amendment by No. 1006 deleted (c).

### **6-20-2516. Academic Facilities Review Board.**

(a) There is established the Academic Facilities Review Board to hear the appeal filed by a public school district under § 6-20-2513(a) of a determination of the Division of Public School Academic Facilities and Transportation.

(b)(1) The board is composed of five (5) members appointed by the Governor as follows:

(A) One (1) member who is a licensed building contractor with five (5) years or more of experience in public school construction selected from a list of three (3) names submitted to the Governor by the Arkansas Chapter, Associated General Contractors;

(B) One (1) member who is a registered architect with at least five (5) years of experience in public school design selected from a list of three (3) names submitted to the Governor by the Arkansas Chapter, American Institute of Architects;

(C) One (1) member who is a licensed or registered engineer with at least five (5) years of experience in public school construction selected from a list of three (3) names submitted to the Governor by the Arkansas Society of Professional Engineers/American Council of Engineering Companies of Arkansas;

(D) One (1) member who is selected from a list of three (3) names submitted to the Governor by the Arkansas Association of Educational Administrators; and

(E) One (1) member who is selected from a list of three (3) names submitted to the Governor by the Arkansas School Boards Association.

(2) A member of the board shall be a resident of this state at the time of appointment and throughout the member's term.

(3) A member of the Commission for Arkansas Public School Academic Facilities and Transportation shall not serve as a member of the commission while serving as a member of the board.

(c)(1)(A) Each member of the board shall serve a term of three (3) years.

(B) The initial members shall draw lots for staggered terms.

(2) The Governor shall appoint any qualified person to fill a position that is vacated before the expiration of a member's term.

(d)(1) The Governor shall designate one (1) member to serve as chair of the board at its organizational meeting.

(2) The chair or the chair's designee shall call an organizational meeting within twenty (20) calendar days after the Governor has appointed all members of the initial board.

(3) At the organizational meeting, the members of the board shall elect a chair, who shall serve as chair for one (1) year.

(4) Annually after the organizational meeting, the board shall elect a new chair.

(e)(1) The board shall meet upon the call of the chair when a hearing is requested by a public school district, but a meeting shall not be held outside of this state.

(2) All action of the board shall be by a majority vote of the quorum present at a meeting.

(3) A majority of the members of the board shall constitute a quorum for the purpose of transacting business.

(f) The Department of Education shall provide staff support for the board's activities.

(g)(1) Members of the board shall serve without pay.

(2) Members of the board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the department to the extent money is available for that purpose.

(h) The board shall establish policies and procedures for conducting hearings and appeals.

(i)(1) Following the hearing at which all testimony and evidence are presented, the board shall make a final determination accepting, rejecting, or modifying the determination of the division.

(2) Within ten (10) business days, the board shall provide to the appellant public school district and to the division a notice of the board's final determination.

(3)(A) If the board's final determination will result in a greater level of state financial participation in a project than previously authorized by the division, the board's final determination shall be reviewed by the commission in accordance with procedures developed by the commission.

(B) A decision of the commission resulting from a review of a decision of the board under this section is final and is not subject to:

(i) Further appeal to the commission;

(ii) Request for rehearing by the commission; or

(iii) Petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 2009, No. 937, § 2; 2011, inserted "and to the division" in (i)(2); and No. 1006, § 5. added (i)(3).

**Amendments.** The 2011 amendment

## CHAPTER 21

### SCHOOL PROPERTY AND SUPPLIES

#### SUBCHAPTER.

1. GENERAL PROVISIONS.

3. ACQUISITION OF COMMODITIES GENERALLY.

4. FREE TEXTBOOK ACT.

8. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT.



## SUBCHAPTER 1 — GENERAL PROVISIONS

## SECTION.

6-21-106. Fire hazards inspection prior to closing for breaks.

6-21-109. Rules governing public works projects.

6-21-112. Division of Public School Academic Facilities and Transportation.

## SECTION.

6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.

6-21-116. Tornado shelter construction.

6-21-117. Leased academic facilities.

### 6-21-105. Braille and large print textbooks.

**A.C.R.C. Notes.** Acts 2011, No. 533, § 11, provided: “BRAILLE AND LARGE PRINT TEXTBOOKS. The State Board of Education shall make reasonable rules and regulations to implement the Braille and Large Print Textbooks appropriation and is hereby authorized to negotiate directly with publishers of Braille and Large Print Textbooks for the purchase of such

textbooks. The Arkansas School for the Blind (ASB) is authorized to use funds from this account for costs associated with providing Braille Textbooks and Large Print Textbooks to public schools.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

### 6-21-106. Fire hazards inspection prior to closing for breaks.

(a)(1) At least seven (7) calendar days prior to the beginning of Christmas break, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the beginning of Christmas break, he or she shall cause the school buildings to be inspected for fire hazards. The inspection shall be conducted prior to the beginning of Christmas break.

(2) At least seven (7) calendar days prior to the end of the school year, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the end of the school year, he or she shall cause the buildings to be inspected for fire hazards. The inspection shall occur prior to the end of the school year.

(b) The chief executive officer of the fire department shall file a written report of the inspection with the superintendent for the school district where the public school building is located within ten (10) calendar days after the inspection.

(c) The inspection shall be at no cost to the school.

(d)(1) The superintendent shall file a written report with the chief executive officer of the fire department within seven (7) calendar days after receiving the inspection report.

(2) The superintendent’s report shall indicate:

(A) What action was taken in response to the inspection report and the date the action was completed; or

(B) What action will be taken in response to the inspection report and the anticipated date of completion of the action.

(3) If the inspection report of the fire department includes deficiencies that require a response or other action, the superintendent shall also file the superintendent's report required by this subsection with the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(e)(1)(A) If the superintendent does not receive a written inspection report for a public school building as required by this section from the chief executive officer of the fire department providing fire protection to the public school building, the superintendent shall notify:

(i) The State Fire Marshal Enforcement Section of the Department of Arkansas State Police; and

(ii) The quorum court of the county in which the fire department is located.

(B) The superintendent shall provide the notifications required by this subdivision (e)(1) not less than thirty (30) days from the date the inspection was required to take place.

(2) The quorum court shall withhold from a fire department that is the subject of notification under this subsection the fire department's apportionment of distributions from the Fire Protection Premium Tax Fund under § 14-284-403 until the fire department completes the inspection and delivers the report to the superintendent.

(3) If the required inspection is subsequently performed, the fire department shall file the report required by subsection (b) of this section with the superintendent and the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(4)(A) Immediately upon receipt of the required report from the fire department, the superintendent will notify the quorum court that the required report has been received.

(B) Upon receipt of the superintendent's notification to the quorum court, the quorum court shall disburse any Fire Protection Premium Tax Fund apportionment previously withheld due to the fire department's ineligibility under this section.

(f) The chief executive officer of the fire department may inspect any work performed by or on behalf of the school or school district to correct deficiencies noted in the inspection report.

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section of the Department of Arkansas State Police and the Department of Education if:

(1) The chief executive officer of the fire department does not receive the superintendent's report required by subsection (d) of this section, within seven (7) days of the date the report was due; or

(2) The school district does not correct all deficiencies noted in the inspection report by the completion date indicated in the superintendent's report.

(h)(1) Any person who intentionally violates this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(2) The failure of a public school superintendent to respond as provided in subsection (d) of this section to correct the deficiencies noted in an inspection report is an indicator of facilities distress under § 6-21-811.

**History.** Acts 1987, No. 152, §§ 1, 2; 1989, No. 411, § 1; 1995, No. 1296, § 28; 2005, No. 1994, § 68; 2007, No. 538, § 1; 2009, No. 376, § 45.

**Amendments.** The 2007 amendment redesignated former (a)(3), (a)(4), (a)(5), (a)(6), and (b) as present (b), (c), (d)(1), (d)(2)(A), and (h)(1), respectively; added (d)(3), (e), (f), (g), and (h)(2); substituted “for the school district where the public

school building is located with ten (10) calendar days” for “within seven (7) calendar days” in present (b); rewrote (d)(2)(A); and in (h)(1), substituted “is subject” for “shall be guilty of a violation and subject” and added “per violation.”

The 2009 amendment substituted “report” for “by the chief executive officer of the fire department” in (d)(2)(B).

## **6-21-109. Rules governing public works projects.**

(a) The Commission for Arkansas Public School Academic Facilities and Transportation, after consulting with the Arkansas Building Authority and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

(b)(1) As used in this section, “public educational entities” means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(2) “Public educational entities” does not include institutions of higher education.

**History.** Acts 2001, No. 1204, § 1; 2007, No. 186, § 1; 2007, No. 617, § 25; 2009, No. 1472, § 1.

**Amendments.** The 2007 amendment by No. 186 substituted “Rules” for “Rules and regulations” in the section heading and in (a); and substituted “Arkansas Building Authority” for “Arkansas State Building Services” in (a).

The 2007 amendment by No. 617 substituted “education service cooperatives” for “educational cooperatives” in (b)(1).

The 2009 amendment substituted “Commission for Arkansas Public School Academic Facilities and Transportation” for “State Board of Education” in (a).

## **6-21-112. Division of Public School Academic Facilities and Transportation.**

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a division of public school academic facilities and transportation should be established under the direct supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.



(b) There is created the Division of Public School Academic Facilities and Transportation, which shall operate under the supervision of the commission.

(c)(1) The commission shall select an individual to serve as the Director of the Division of Public School Academic Facilities and Transportation. The Director of the Division of Public School Academic Facilities and Transportation shall serve at the pleasure of the commission.

(2) The person selected as the Director of the Division of Public School Academic Facilities and Transportation shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the division;

(B) Have significant knowledge and experience in construction; and

(C) Have ten (10) years' experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the commission shall be eligible to serve as the Director of the Division of Public School Academic Facilities and Transportation.

(d) The Director of the Division of Public School Academic Facilities and Transportation, with guidance and approval from the commission, shall be responsible for hiring all employees of the division.

(e)(1) The Director of the Department of Information Systems shall assign one (1) individual to serve as a technology liaison to the division.

(2) The Director of the Arkansas Building Authority shall assign one (1) individual from the staff of the Arkansas Building Authority to serve as a physical plant liaison to the division.

(f) The division shall:

(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;

(2) Use recommendations or assessments of the Academic Facilities Oversight Committee or the General Assembly as a basis for establishing the policies and procedures of the division;

(3) Develop and implement the Arkansas Public School Academic Facilities Program Act as established in § 6-21-801 et seq.;

(4) Administer the various programs of state financial participation in support of local academic facilities;

(5)(A) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the state of condition of all public school academic facilities in the state.

(B) If the process developed is an automated statewide system, it shall encompass all school districts;

(6) Develop and implement an ongoing process for collecting records from state agencies of all lawfully required inspections of public school academic facilities conducted by state agencies and commissions;

(7) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school

academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

(8) Conduct unannounced random on-site inspections of public school academic facilities;

(9) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

(10) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

(11) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

(12) Review applicable statutes and rules for conflicts with or omission of energy-related content;

(13) Administer the school transportation program in the various school districts of Arkansas, including without limitation:

(A) The training of school bus drivers; and

(B) The inspection of school buses, as defined in § 6-19-110;

(14) Keep records showing a description of each school district in the state, a map showing the school districts with current and accurate boundaries, the location of the academic facilities, and the electoral zones, if any, into which each school district has been divided;

(15)(A) Report by October 1 of each year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state of condition of academic facilities statewide using the following building and design systems:

(i) Site land and all improvements to the site, excluding permanent or temporary buildings, such as grading, drainage, drives, parking areas, walks, landscaping, and playgrounds;

(ii) Roofing;

(iii) Exterior;

(iv) Structure;

(v) Interior;

(vi) Heating, ventilation, and air conditioning;

(vii) Plumbing and water supply;

(viii) Electrical;

(ix) Technology;

(x) Fire and safety;

(xi) Specialty items, including equipment and furnishings; and

(xii) Space utilization.

(B) The report also shall include summary results of lawfully required inspections of public school academic facilities by state agencies and commissions;

(16) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state academic facilities master plan;



(17) Maintain a public access website dedicated to public school academic facilities; and

(18) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

(g) The division may:

(1) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program over which the division has authority;

(2)(A) Accept all donations, grants of money, equipment, supplies, materials, and services conditional or otherwise from private sources, from municipal and county governments, from the state, and from the federal government.

(B) The division may use any of its resources to further the division's purposes and functions; and

(3) Make and enter into all contracts, commitments, and agreements and execute all instruments necessary or incidental to the performance of its duties and powers under this section, the Arkansas Public School Academic Facilities Program, or any other related program over which the division has authority.

(h) The Department of Education shall coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel and responsibilities to effectuate the daily operations of the division and the department.

**History.** Acts 2003 (2nd Ex. Sess.), No. 90, § 2; 2005, No. 1327, § 1; 2007, No. 751, § 2; 2007, No. 989, § 16; 2007, No. 1580, § 1; 2009, No. 1473, § 14; 2009, No. 1475, § 1.

**Amendments.** The 2007 amendment by No. 751, in (e)(1), substituted "Director of the Department of Information Systems" for "Executive Chief Information Officer" and deleted "from the staff of the Office of Information Technology" following "individual."

The 2007 amendment by No. 989 substituted "Enforce through planning" for "Develop" in (f)(8); substituted "school

buses, as defined in § 6-19-110" for "school buses or other vehicles used in transporting public school students" in present (f)(12); and added present (f)(17).

The 2007 amendment by No. 1580 inserted present (f)(11), and redesignated the remaining subdivisions accordingly.

The 2009 amendment by No. 1473 rewrote (f)(5).

The 2009 amendment by No. 1475 inserted (f)(6) and redesignated the remaining subdivisions accordingly; substituted "and rules" for "rules, and regulations" in (f)(12); rewrote (f)(13) and (f)(15); and made a stylistic change in (f)(2).

## **6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.**

(a) There is created the Commission for Arkansas Public School Academic Facilities and Transportation, which shall consist of the following:



- (1) The Director of the Department of Finance and Administration;
- (2) The Commissioner of Education; and
- (3) The President of the Arkansas Development Finance Authority.

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of Education shall be the chair of the commission.

(2)(A) The commission shall meet at least quarterly and upon the call of the chair.

(B)(i) The secretary of the commission shall be an employee of the Division of Public School Academic Facilities and Transportation assigned to the commission by the chair of the commission.

(ii) The secretary shall give members advance notice of the agenda of each meeting.

(3)(A) Two (2) members of the commission shall constitute a quorum for the purpose of transacting business.

(B) A quorum is required for any action of the commission.

(4) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the Department of Education, the Arkansas Development Finance Authority, and the division.

(d) The commission shall:

(1) Oversee the operations of the division; and

(2)(A) Promulgate rules in consultation with the Insurance Commissioner to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;

(iii) Establish bidding requirements and procedures, if applicable to any insurance coverage; and

(iv)(a) Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Subcommittee on Administrative Rules and Regulations of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; and

(4) Study and promulgate rules concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

(i) Earth movement; or

(ii) The operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4).

(5) Receive and administer federal funds made available to the state for the purpose of assisting local school districts in providing elementary and secondary school facilities for:

(A) General education programs;

(B) Vocational programs; and

(C) Adult education programs.

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Interim Committee on Education, the Senate Interim Committee on Education, the State Board of Education, and the Academic Facilities Oversight Committee.

**History.** Acts 2005, No. 1327, § 2; 2006 (1st Ex. Sess.), No. 32, § 2; 2006 (1st Ex. Sess.), No. 33, § 2; 2007, No. 625, § 1; 2009, No. 1473, § 15.

**Amendments.** The 2007 amendment added (d)(2) and (e)(4); and made related changes.

The 2009 amendment added (e)(5).

## 6-21-116. Tornado shelter construction.

(a) All building plans for new public school facilities may include a tornado shelter or a designated reinforced area designed to withstand tornadoes and high-speed winds.

(b)(1) School districts shall be required to generate funds to meet the requirements of subsection (a) of this section.

(2) School districts may apply for grant funds to assist in the construction of a tornado shelter or a designated reinforced area in new public school facilities.

(c) Facilities constructed under this section will be subject to review under § 6-20-1407.

**History.** Acts 2007, No. 1584, § 1; **Amendments.** The 2009 amendment 2009, No. 1473, § 16. rewrote the section heading and (c).

### **6-21-117. Leased academic facilities.**

An academic facility leased by a school district shall:

(1) Not be entitled to facilities program funding under § 6-20-2502(2)(B);

(2) Conform to the school facility standards defined in the Arkansas School Facility Manual;

(3) Be inspected by the Division of Public School Academic Facilities and Transportation to ensure that the facility complies with required academic facility standards prior to the execution of a lease or a renewal of an existing lease;

(4) Be eligible for a waiver commensurate with the Arkansas School Facility Manual granted by the Commission for Arkansas Public School Academic Facilities and Transportation; and

(5) Be exempt from the academic facility standards for the duration of the replacement of an academic facility that is lost due to a catastrophic event if the leased academic facility is used solely for the purpose of providing an academic facility.

**History.** Acts 2009, No. 1473, § 17.

## **SUBCHAPTER 3 — ACQUISITION OF COMMODITIES GENERALLY**

### **SECTION.**

6-21-304. Manner of making purchases.

### **6-21-304. Manner of making purchases.**

(a)(1) All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

(A) In each instance in which the estimated purchase price shall equal or exceed ten thousand dollars (\$10,000), the commodity shall be procured by soliciting bids, provided that the purchasing official may reject all bids and may purchase the commodity by negotiating a contract. If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;



(B) Open market purchases may be made when the purchase price is less than ten thousand dollars (\$10,000); and

(C) No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

(2)(A) In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

(B)(i) As used in this subdivision (a)(2), "specifications" means a technical description or other description of the physical or functional characteristics of a commodity.

(ii) Specifications shall not include the name or identity of any specific vendor.

(3)(A) A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

(B) Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders, offerors, or contractors to submit a bid or otherwise appropriate response.

(4)(A) Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

"NAME OF SCHOOL DISTRICT

NAME OF COUNTY

I, \_\_\_\_\_, hereby state:

(1) I am the duly authorized agent of \_\_\_\_\_, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and state officials, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the awarding of any contract pursuant to the bid to which this statement is attached.

(2) I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of the bid.

(3) Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

(A) To any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

(B) To any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of the prospective contract; or

(C) In any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the awarding of a contract.

(4) I hereby guarantee that the specifications outlined in the bid shall be followed as specified and that deviations from the specifications shall occur only as part of a formal change process approved by the Board of Directors of the school district.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public"

(B) Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

(5)(A) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school district in accordance with procedures established by the board of directors of the school district.

(B) Protest procedures shall include, at a minimum, provisions addressing the following:

(i) The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

(ii) Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

(iii) The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

(iv) The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

(v) The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

(vi) The award of costs with regard to successful protests.

(C) A decision on a protest under this section shall be final and conclusive.

(b)(1) The local school board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

(2) The Commission for Arkansas Public School Academic Facilities and Transportation shall have responsibility for drawing up the minimum specifications for all school buses.

(3) An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the department in drawing up specifications for school buses.

(4)(A) A local school board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

(B) If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

(5) If a local school board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

(A) A copy of all the bid specifications;

(B) A list of invited bidders;

(C) Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

(D) A complete bid tabulation; and

(E) A copy of the bid award.

(c) For the purposes of this section:

(1) A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

(2) A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels;

(3) A "Type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

(4) A "Type D school bus" is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

**History.** Acts 1983, No. 639, § 2; A.S.A. 1947, § 80-552; Acts 1987, No. 65, § 1; 1993, No. 896, § 2; 1997, No. 327, § 1; 1997, No. 820, § 2; 2005, No. 2161, § 1; 2009, No. 1473, § 18.

**Amendments.** The 2009 amendment rewrote (b)(2).



## SUBCHAPTER 4 — FREE TEXTBOOK ACT

### SECTION.

6-21-403. Requirements generally.

### 6-21-403. Requirements generally.

(a) Public school districts shall provide textbooks, other instructional materials, or digital resources, including the availability of any equipment needed to access the digital resources, for all pupils attending the public schools of this state in kindergarten through grade twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

(b) School districts may select their own textbooks, instructional materials, or digital resources, including the availability of any equipment needed to access the digital resources, or school districts may select from the recommended state-approved list.

(c) Any materials purchased with state funds shall be consistent with the curriculum and educational goals established by the State Board of Education.

(d)(1)(A) The Department of Education shall monitor to ensure that all school districts in Arkansas comply with this section.

(B) The department shall report in the annual school performance report a school district that fails to provide textbooks, other instructional materials, or digital resources, including the availability of any equipment needed to access the digital resources.

(2) The state board, through the department, may promulgate rules as may be necessary to carry out this subchapter and shall report to the members of the House Committee on Education and Senate Committee on Education annually any school district out of compliance by November 1 of each year.

**History.** Acts 1975, No. 302, §§ 2, 3; A.S.A. 1947, §§ 80-1702, 80-1703; Acts 1995, No. 280, § 2; 1995, No. 605, § 2; 2007, No. 1199, § 1; 2007, No. 1577, § 1; 2011, No. 288, § 1.

**Amendments.** The 2007 amendment by No. 1577 added (d).

The 2011 amendment inserted “or digital resources, including the availability of

any equipment needed to access the digital resources” in (a) and (b); subdivided (d)(1); rewrote (d)(1)(B); and, in (d)(2), substituted “House Committee on Education and Senate Committee on Education” for “House Education Committee and Senate Education Committee” and “November 1 of each year” for “November 1, 2007 and each year thereafter.”

## SUBCHAPTER 8 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT

### SECTION.

6-21-803. Definitions.

6-21-806. Academic Facilities Master Plan Program — School districts.

6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.

### SECTION.

6-21-811. Academic Facilities Distress Program.

6-21-813. Inspections.

**6-21-803. Definitions.**

As used in this subchapter:

(1)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where public school students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter.

(E) A leased facility shall not be considered an academic facility for the purpose of this subchapter;

(2) "Annexation" means the joining of an affected school district or part of the school district with a receiving district under § 6-13-1401 et seq.;

(3) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district under § 6-13-1401 et seq.;

(4) "Custodial activities" means routine and renovation cleaning activities related to the daily operations and upkeep of a public school facility, including related supervisory and management activities;

(5) "Facilities distress status" means a public school district determined by the Division of Public School Academic Facilities and Transportation as being in academic facilities distress status under this subchapter;

(6) "Facilities improvement plan" means a remedial plan developed by a school district for a public school or school district identified as being in academic facilities distress that supplements the school district's facilities master plan by:

(A) Identifying specific interventions and actions the public school or school district will undertake in order to correct deficient areas of practice with regard to custodial, maintenance, repair, and renovation activities with regard to academic facilities in the school district; and

(B) Describing how the school district will remedy those areas in which the school district is experiencing facilities distress, including the designation of the time period by which the school district will

correct all deficiencies that placed the school district in facilities distress status;

(7) "Facilities master plan" means a six-year plan developed by a school district that contains:

(A) Enrollment projections for ten (10) years from the date of the plan;

(B) The school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment; and

(C) Other information as required by law;

(8) "Foundation funding" means the same as in § 6-20-2303;

(9) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(10) "Maintenance, repair, and renovation" means any activity or improvement to a public school facility that maintains, conserves, or protects the state, condition, or efficiency of the public school facility;

(11)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state, condition, or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes a new addition to an existing academic facility and construction of a new academic facility;

(12) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility;

(13) "Public school facility" means any public school building or space, including related areas such as the physical plant and grounds, that is used for any purpose, including, without limitation:

(A) An extracurricular activity;

(B) An organized physical activity course as defined in § 6-16-137;

(C) Prekindergarten education;

(D) District administration; or

(E) Delivery of instruction to public school students that is an integral part of an adequate education as described in § 6-20-2302;

(14) "Reconstitution" means the reorganization of the administrative unit or the governing board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board of directors, or both;



(15) "School district" means a geographic area that:

(A) Is governed by an elected board of directors that conducts the daily affairs of public schools under the supervisory authority vested in it by the General Assembly and § 6-13-101 et seq.; and

(B) Qualifies as a taxing unit for purposes of ad valorem property taxes under Arkansas Constitution, Article 14, § 3; and

(16) "Space utilization" means the number of gross square feet per student in an academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

**History.** Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 4; 2007, No. 827, § 116; 2009, No. 1473, § 19; 2011, No. 1006, §§ 8-10.

**Amendments.** The 2007 amendment rewrote (15).

The 2009 amendment added (1)(E).

The 2011 amendment substituted "six-year" for "ten-year" in the introductory language of (7); rewrote (7)(A); deleted (10)(B); and substituted "current" for "original" near the end of (11)(A).

## **6-21-806. Academic Facilities Master Plan Program — School districts.**

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a six-year districtwide facilities master plan that shall be approved by the school district's board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation;

(2) Base its facilities master plan on the provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School Academic Facilities and Transportation, on priorities indicated by statewide assessment, on priorities established by the division statewide facility needs priority list, and on other pertinent data specific to the needs of the school district with regard to academic facilities and equipment;

(3) Present a draft of the school district's facilities master plan in a public hearing in the same locality as the school district and take public comments;

(4) Submit evidence of the school district's insurance coverage to the division, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders;

(5) Submit the school district's facilities master plan with a summary of comments made at public hearing to the division by February 1 of each even-numbered year; and

(6) Submit a report to the division by February 1 of each odd-numbered year that includes a description of all projects completed in the school district since the submission of the school district's most recent facilities master plan, the school district's current enrollment projections, new or continuing needs of the school district with regard to academic facilities and equipment, and an accounting of any changes in

the school district's insurance coverage from the most recent submission.

(b) A facilities master plan shall include, at a minimum, the following:

(1) A schedule of custodial activities for each public school facility used by a school district;

(2) A schedule of maintenance, repair, and renovation activities for each public school facility used by a school district. The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;

(3) Documentation that describes preventive maintenance work for each public school facility and identifies the completion date of the work. The documentation shall distinguish between preventive maintenance work associated with academic facilities and preventive maintenance work associated with nonacademic public school facilities;

(4)(A) Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district.

(B) The section of the facilities master plan pertaining to the annual expenditures under subdivision (b)(4) of this section shall distinguish between expenditures associated with academic facilities and expenditures associated with nonacademic public school facilities;

(5) A projected replacement schedule for major building systems in each public school facility;

(6) Identification of issues with regard to public school facility and program access to individuals with disabilities and, if necessary, proposed methods for improving access;

(7)(A) Identification of committed projects within the school district that includes, as applicable, a breakdown of the portion of each project into maintenance, repair, and renovation activities and new construction activities.

(B) The portion of a committed project pertaining to maintenance, repair, and renovation activities shall identify, as applicable, maintenance, repair, and renovation activities associated with academic facilities and maintenance, repair, and renovation activities associated with nonacademic public school facilities;

(8) Annual expenditures of the school district for capital outlay;

(9) A description of planned new construction projects with cost estimates for each public school facility within the school district and needs prioritized as follows:

(A) Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan; and

(B) Long-term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan; and

(10) Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of public school facilities covered, policy renewal dates, and all riders.



(c)(1) The division shall establish procedures and timelines for a school district to submit a preliminary facilities master plan or a master plan outline to the division before the submission of the school district's final facilities master plan.

(2) The preliminary facilities master plan or master plan outline shall form the basis for a consultation meeting between representatives of the school district and members of the division.

(3) As soon as practicable after submission of the preliminary facilities master plan or master plan outline, the division shall hold the consultation meeting with the school district to:

(A) Assure understanding of the general goals of this subchapter and the criteria by which projects will be evaluated;

(B) Discuss ways the facilities master plan may be structured to meet the goals of this subchapter;

(C) Assist school districts to prepare accurate budgets and reasonable project schedules; and

(D) Provide for efficiency and productivity in the approval process for local academic facilities projects and state financial participation in local projects.

(d) The division shall review and upon all requirements' being met approve a school district's facilities master plan no later than September 1 of each even-numbered year and shall notify a school district no later than May 1 of each odd-numbered year whether the school district's application for state financial participation during the upcoming biennium in an eligible new construction project has been approved.

(e)(1) A school district may amend its facilities master plans at any time during the six-year cycle specified in § 6-21-803.

(2) An amendment may be submitted out of the regular even-numbered year cycle if the school district:

(A) Has encountered:

(i) A major enrollment change;

(ii) A major curriculum change;

(iii) A major disaster; or

(iv) An unforeseen occurrence; or

(B)(i) Has begun or completed a self-funded construction project over which the division has only review authority.

(ii) An amendment submitted under subdivision (e)(2)(B)(i) of this section may be submitted in the form of an appendix to the existing school district facilities master plan.

**History.** Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 6; 2007, No. 989, §§ 16, 17; 2009, No. 1473, § 20; 2011, No. 1006, §§ 11, 12, 12[13].

**Amendments.** The 2007 amendment inserted "on priorities established by the division statewide facility needs priority list" in (a)(2); substituted "July 1 of each even-numbered year" for "July 1, 2006" in (a)(4); substituted "public school facility"

for "academic facility" in (b)(5); deleted former (b)(6) and (b)(7) and redesignated the remaining subdivisions in (b) accordingly; and added (e).

The 2009 amendment deleted "by July 1 of each even-numbered year" following "the division" in (a)(4).

The 2011 amendment substituted "six-year" for "ten-year" in (a)(1); substituted "Long-term" for "Short-term" in (b)(9)(B);



deleted (b)(9)(C) and (d)(1); redesignated (d)(2) as (d); in (d), deleted "Except as provided in subdivision (d)(1) of this section" from the beginning and inserted "upon all requirements being met"; and substituted "six-year" for "ten-year" in (e)(1).

### **6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.**

(a) The purposes of the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual and this section are to:

- (1) Provide for the long-term conservation and protection of public school facilities;
- (2) Eliminate the deterioration of existing and future public school facilities;
- (3) Provide a safe and healthy environment for students, teachers, administrators, and staff of the public schools; and
- (4) Provide for the efficient use of state and local funds in support of academic facilities in each school district in the state.

(b)(1) The manual shall contain standards for custodial operations related to public school facilities.

(2) Standards for custodial operations in public school facilities shall include the following:

- (A) The required contents of a custodial care plan;
- (B) A suggested schedule for routine care and renovation cleaning;
- (C) Levels of personnel necessary to perform custodial operations;
- (D) Training criteria for the use and storage of supplies and equipment, with emphasis given to chemical right-to-know, indoor air quality, and other applicable standards;
- (E) Supplies and equipment necessary to perform custodial operations, including space standards for the proper storage of supplies and equipment;
- (F) In-service training opportunities for custodial personnel;
- (G) Designation of routine duties;
- (H) Designation of renovation cleaning duties; and
- (I) Suggested schedule for the sanitary inspection of all school buildings.

(c)(1) The manual shall contain standards for maintenance, repair, and renovation activities related to public school facilities.

(2) Standards for maintenance, repair, and renovation activities in public school facilities shall include the following:

- (A) The required contents of a preventive maintenance plan, which shall include guidelines for:
  - (i) Scheduling preventive maintenance activities for public school facilities;
  - (ii) Preparing and retaining documentation that describes preventive maintenance work related to public school facilities and identifies the completion date of the work;
  - (iii) Scheduling lawfully required inspections of public school facilities conducted by state agencies and commissions; and

(iv) Scheduling the inspections specified by the Commission for Arkansas Public School Academic Facilities and Transportation relating to safe, dry, and healthy public school facilities;

(B)(i) Development and implementation of a work-request system to allow others to inform a public school's maintenance department of needs and to allow the responsible person to prioritize responses.

(ii)(a) School districts shall be required to participate in any state-level computerized maintenance management system designed to track work orders and preventative maintenance work established by the division at no cost to the school district.

(b) The cost associated with additional maintenance modules by a school district shall be at the expense of the school district and may be within the nine-percent minimum maintenance expenditures under § 6-21-808(d)(1)(A);

(C) Levels of personnel necessary to perform maintenance operations;

(D) Training criteria for maintenance personnel with regard to:

(i) School policies;

(ii) Safety procedures;

(iii) Use of specialized equipment;

(iv) Compliance with federal, state, county, and municipal laws and regulations impacting public school facilities and equipment; and

(v) Other applicable areas;

(E) In-service training opportunities for maintenance personnel;

(F) Inspection, cleaning, servicing, and repair of heating, ventilation, and air-conditioning systems;

(G) Inspection and repair of:

(i) Electrical systems;

(ii) Hot water boilers and heaters;

(iii) Fire alarms;

(iv) Fire extinguishers and kitchen hood vent suppression systems;

(v) Emergency lighting and exit light fixtures;

(vi) Elevators and wheelchair lifts;

(vii) Plumbing;

(viii) Roofs;

(ix) Stairwell areas;

(x) Interior and exterior lighting;

(xi) Doors and windows;

(xii) Floor coverings;

(xiii) Masonry and concrete building exteriors;

(xiv) Interior and exterior finishes;

(xv) Kitchen equipment;

(xvi) Sidewalks, driveways, parking areas, and paved play areas; and

(xvii) Parking lots, handicap parking spaces, driveways, fire and emergency vehicle zones, and bus and car loading and unloading areas;

- (H) Inspection and repair and servicing of fire sprinkler systems;
- (I) Maintenance of a pest control program;
- (J) Inspection of playground equipment; and
- (K) Grounds maintenance.

(d)(1)(A) Each school district shall dedicate nine percent (9%) of its foundation funding exclusively to payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(B)(i) If any amount of the dedicated nine percent (9%) is unspent at the end of the school district's fiscal year, the funds shall carry over, and the school district shall transfer the remaining amount into a public school facilities escrow account.

(ii) A school district may use funds from its public school facilities escrow account in any fiscal year for payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(iii) If a school district wants to use funds from its public school facilities escrow account for new construction, the school district shall apply to the Division of Public School Academic Facilities and Transportation for its approval. If the division authorizes the release of funds from the school district's public school facilities escrow account and approves the new construction, the school district may use the funds as authorized by the division.

(2)(A) A school district is not required to use funds in its public school facilities escrow account for new construction.

(B)(i) New construction shall be funded by local resources, which may include funds in the school district's public school facilities escrow account if approved by the division.

(ii) In addition, new construction may be eligible for state financial participation.

**History.** Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 7; 2009, No. 1473, §§ 21, 22; 2009, No. 1475, § 2.

The 2009 amendment by No. 1475 added (c)(2)(A)(iii) and (c)(2)(A)(iv) and made related changes.

**Amendments.** The 2009 amendment by No. 1473 added (b)(2)(I); and rewrote (c)(2)(B).

## 6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall identify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the division to jeopardize any academic facility used by a public school or school district, including, but not limited to:



(A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;

(C) Material violation of applicable building code provisions or law;

(D) Material failure to provide timely and accurate facilities master plans to the division;

(E) Material failure to comply with state law governing purchasing, bid requirements, or school-construction-related laws or rules in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the division to have a detrimental impact on educational services provided by that public school or school district.

(b) The division shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of the public school or school district identified as being in facilities distress.

(c)(1) By August 31 of each year, the division shall notify the superintendent of a school district if the division is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the division deems to be nonmaterial but that without intervention could place the district in facilities distress.

(2) The superintendent of a school district shall report to the division if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial but that without intervention could place the district in facilities distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.

(B)(i) Within thirty (30) days of the division's determination that the school district may be experiencing facilities distress at a non-material level, the division shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational services provided by the affected public school or the school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of facilities distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

(4)(A) If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the division and the board of directors of the school district.

(B) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

(d)(1) A public school or school district identified as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of receipt of the notice and promptly submit the facilities improvement plan to the division for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the division and submit the updated facilities improvement plan to the division in order for the division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(e)(1) Every two (2) years beginning February 1, 2009, the division shall determine whether the progress of each school district complies with the school district's facilities master plan and shall notify the school district of any noncompliance.

(2) Beginning on February 1, 2008, and each biennium thereafter, the division shall review the applications made for the Academic Facilities Partnership Program established under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (e)(1) or (e)(2) of this section, the school district shall submit a facilities improvement plan to the division for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the decision of the division under this subsection to the commission pursuant to the procedures established by the commission;

(f)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the division will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:



- (a) Immediate repairs under § 6-20-2504(b)(4);
- (b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or
- (c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district is identified as being in facilities distress under this section and § 6-21-812.

(B) The written notice shall be provided via certified mail to the president of the school board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (f)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The division and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the division and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (f)(1)(A) of this section the school district has not set an election date, the division shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the division to fund its improvements separately, which shall include an implementation timeframe.

(ii) The division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(g) When a school district is identified by the commission to be in facilities distress, the division may with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.



(B) Any school district identified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The recommendations of the division are binding on the school district, the superintendent, and the school board of directors;

(2) Require the superintendent to relinquish all administrative authority with respect to the school district;

(3)(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of Education, or his or her designee.

(B) The division may direct the school district to compensate from school district funds the individual appointed to operate the school district;

(4) Suspend or remove any or all members of the current board of directors and call for the election of a new school board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(5) Require the school district to operate without a local school board of directors under the supervision of the local superintendent;

(6) Require the school district to operate without a local school board of directors under the supervision of an individual or panel appointed by the Commissioner of Education;

(7) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected school board of directors;

(8) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(9)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(10) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

(11)(A) Petition the State Board of Education at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(C) The state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within two (2) consecutive school years of receipt of notice of identification of facilities distress status by the division;

(12) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

(13)(A) If the division recommends and the commission concurs that the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, the state board may dissolve the school district and transfer students to public schools in other public school districts.

(B) The state board shall assign the public school district's territory, property, and debt; and

(14) Take any other action allowed by law that is deemed necessary to assist a public school or school district in removing criteria of facilities distress.

(h) No school district identified by the division as being in facilities distress may incur any debt without the prior written approval of the commission.

(i) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all division recommendations and requirements for removal from facilities distress status.

(j) The division shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(k)(1)(A) If a school district is identified as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the division, in addition to any other remedy under this section and § 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the division.



(1) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, No. 01-836; and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

**History.** Acts 2005, No. 1426, § 1; 2007, No. 989, § 18; 2007, No. 996, § 2; 2009, No. 798, § 2; 2009, No. 1473, § 23.

**Amendments.** The 2007 amendment by No. 989, in the introductory language of (a), substituted "Commission for" for "Division of" and substituted "the Division of Public School Academic Facilities and Transportation recommends and the commission concurs" for "the division determines"; and added (a)(1)(G).

The 2007 amendment by No. 996, in (a), substituted "Commission for Arkansas" for "Division of" and substituted "recommends and the commission concurs" for "determines"; inserted "Arkansas" in (a)(1)(A); added (a)(1)(G); added (d) and (e) and redesignated the remaining subsections accordingly; in present (f), substituted "commission" for "division" and added "with the approval of the commission" following "may"; substituted "Com-

missioner of Education, or his designee" for "Director of the Division of Public School Academic Facilities and Transportation" in (f)(3)(A); deleted "or an individual or panel appointed by the director" following "superintendent" in (f)(5); added (f)(6); deleted "immediately" following "cease" in (f)(9)(A); substituted "State Board of Education" for "state board" in (f)(11)(A); redesignated former (f)(10)(C)(i) as present (f)(11)(C); deleted former (f)(10)(C)(ii) and made a related change; added (f)(12) and (f)(13); and added (j).

The 2009 amendment by No. 798 added the (1) designation in (b); inserted present (c); and redesignated the remaining subsections accordingly.

The 2009 amendment by No. 1473 inserted "or school construction related laws or rules" in (a)(1)(E) and made related changes.

## 6-21-813. Inspections.

(a) The Division of Public School Academic Facilities and Transportation shall conduct random unannounced on-site inspections of all academic facilities to ensure compliance with the school district's facilities master plan and, if applicable, the school district's facilities improvement plan in order to preserve the integrity of and extend the useful life of public school academic facilities and equipment across the state.

(b) The division shall submit reports regarding its on-site inspections of academic facilities to the Commission for Arkansas Public School Academic Facilities and Transportation within thirty (30) days of completion of the on-site inspections.

(c) Based on the division's on-site inspection or notification by the division to the Commission for Arkansas Public School Academic Facilities and Transportation that the changes or additions to a school district's facilities master plan or facilities improvement plan required by the division have not been implemented within the time period prescribed by the division, the Commission for Arkansas Public School Academic Facilities and Transportation shall restrict the use of the



necessary funds or otherwise allocate funds from moneys appropriated by the General Assembly.

(d) The division shall work with state agencies and commissions requesting inspection assistance for those areas in which the state agency or commission has primary responsibility to conduct lawfully required inspections.

(e) The division shall work with school districts, state agencies, and state commissions to ensure that:

(1) All lawfully required inspections of academic facilities are performed, including without limitation scheduled, unscheduled, or emergency inspections of or concerning:

- (A) Boilers;
- (B) Electrical systems;
- (C) Heating, ventilation, and air conditioning systems;
- (D) Natural gas piping systems;
- (E) Liquid propane gas systems;
- (F) Plumbing systems, including without limitation reduced pressure zone valves;
- (G) Indoor air quality systems;
- (H) Fire prevention;
- (I) Elevators;
- (J) Occupational safety and health issues;
- (K) Water wells; and
- (L) Asbestos; and

(2) The division receives the same report on the same date that a school district receives a report concerning a lawfully required scheduled or unscheduled inspection or reinspection of an academic facility.

(f) If an inspection or code violation is reported in the course of an inspection or reinspection conducted by a state agency or commission, the division shall work closely with the school district and the appropriate state agency or commission to ensure the violation is remedied within thirty (30) days of the date the inspection or code violation is reported or as soon as reasonably possible thereafter.

**History.** Acts 2005, No. 1426, § 1; in part by moneys from the state” preceding “to ensure” in (a); and added (d) 2009, No. 1475, § 3.

**Amendments.** The 2009 amendment through (f).  
deleted “that have been funded wholly or

CHAPTER 23

ARKANSAS CHARTER SCHOOLS ACT OF 1999

SUBCHAPTER.

1. GENERAL PROVISIONS.
3. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS.
4. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION.
5. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING.
6. LIMITED PUBLIC CHARTER SCHOOLS.

## SUBCHAPTER 1 — GENERAL PROVISIONS

## SECTION.

6-23-103. Definitions.

6-23-104. Charter form for public charter schools — Requirements — Revision.

6-23-105. Basis and procedure for public charter school probation or

## SECTION.

charter modification, revocation, or denial of renewal.

6-23-107. Reporting requirements.

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**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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### 6-23-103. Definitions.

As used in this chapter:

(1) "Application" means the proposal for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status;

(2) "Charter" means a performance-based contract for an initial five-year period between the State Board of Education and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;

- (3) "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school board and the state board;
- (4) "Eligible entity" means:
- (A) A public institution of higher education;
  - (B) A private nonsectarian institution of higher education;
  - (C) A governmental entity; or
  - (D) An organization that:
    - (i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and
    - (ii) Has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;
- (5) "Founding member" means any individual who is either:
- (A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or
  - (B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;
- (6) "Limited public charter school" means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the state board;
- (7) "Local school board" means a board of directors exercising the control and management of a public school district;
- (8)(A) "Open-enrollment public charter school" means a public school that:
- (i) Is operating under the terms of a charter granted by the state board on the application of an eligible entity;
  - (ii) May draw its students from any public school district in this state; and
  - (iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on April 10, 2009,
- (B) "Open-enrollment public charter school" also possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;
- (9) "Parent" means any parent, legal guardian, or other person having custody or charge of a school-age child;
- (10) "Public school" means a school that is part of a public school district under the control and management of a local school board; and
- (11) "Public charter school" means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school.

**History.** Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1; 2009, No. 1469, § 18.

**Amendments.** The 2007 amendment rewrote the section.  
The 2009 amendment rewrote (8).



**6-23-104. Charter form for public charter schools — Requirements — Revision.**

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the Chair of the State Board of Education and the chief operating officer of the public charter school;

(2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the State Board of Education may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the state board.

**History.** Acts 1999, No. 890, § 10; inserted “public charter”; substituted 2007, No. 736, § 2; 2009, No. 1469, § 19. “State Board of Education” for “state board” in (a)(3); and in (b), inserted “or amendment,” and substituted “state board” for “State Board of Education.”

**Amendments.** The 2007 amendment substituted “public” for “open-enrollment” in the section heading; inserted “public” preceding “charter” in (a) and (b); in (a)(1), substituted “Commissioner of Education” for “chairman of the state board” and The 2009 amendment substituted “Chair of the State Board of Education” for “Commissioner of Education” in (a)(1).

**6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.**

(a) The State Board of Education may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if the state board determines that the persons operating the public charter school:

(1) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) Failed to satisfy generally accepted accounting standards of fiscal management;

(3) Failed to comply with this chapter or other applicable law or regulation; or

(4) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the state board.

(b) Any action the state board may take under this section shall be based on the best interests of the public charter school’s students, the severity of the violation, and any previous violation the public charter school may have committed.

(c) The state board shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, or denying renewal of the school’s charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2)(A) The hearing shall be held at the location of the regular or special meeting of the state board.

(B) The state board shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the state board.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

**History.** Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3; 2009, No. 1469, § 23. throughout the section; added (a)(4), (d)(3) and (d)(4); and made related changes.

**Amendments.** The 2007 amendment inserted "public" in the section heading; inserted "public" and "public charter" The 2009 amendment deleted "and to the parents of students enrolled in the public charter school" at the end of (d)(1).

### 6-23-107. Reporting requirements.

(a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the Department of Education that contains the following information for the current school year:

(1) The number of applications for enrollment received;

(2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

(b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the department that contains the following information for the current school year:

(1) The number of students in each of the following categories:

(A) Students who dropped out of the public charter school during the school year;

(B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) did not complete the school year at the public charter school; and

(2)(A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assessments and end-of-course assessments.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The department shall not exempt a public charter school from the reporting required under this section.

(d) The department shall publish a copy of each report on the department's website.

(e) If a public charter school fails to comply with this section, the department shall note the failure in the annual evaluation of the public charter school.

**History.** Acts 2011, No. 993, § 3.

### SUBCHAPTER 3 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

#### SECTION.

6-23-301. Application forms and procedures for open-enrollment public charter schools.

6-23-302. Application for an open-enrollment public charter school.

#### SECTION.

6-23-304. Requirements — Preference for certain districts.

6-23-306. Contents of open-enrollment public charters.

6-23-307. Renewal of charter.

**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."



**6-23-301. Application forms and procedures for open-enrollment public charter schools.**

- (a) The State Board of Education shall adopt:
  - (1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and
  - (2) Criteria to use in selecting a program for which a charter may be granted.
- (b) The application form must provide space for including all information required under this chapter to be contained in the charter.
- (c) [Repealed.]

<b>History.</b> Acts 1999, No. 890, § 8; 2007, No. 736, § 12; 2011, No. 993, § 4.	and twice in (c); and substituted “an open-enrollment public charter school” for “a charter school” in (a)(1).
<b>Amendments.</b> The 2007 amendment inserted “public” in the section heading	The 2011 amendment deleted (c).

**6-23-302. Application for an open-enrollment public charter school.**

- (a) Pursuant to the provisions of this chapter, an eligible entity may apply to the State Board of Education to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.
- (b) The application to the state board for an open-enrollment public charter school shall be made in accordance with a schedule approved by the state board.
- (c) The application shall:
  - (1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.
  - (B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.
  - (ii) The last publication of notice shall be no less than seven (7) days prior to the public meeting.
  - (iii) The notice shall not be published in the classified or legal notice section of the newspaper.
  - (C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the state board to be considered at the time of the state board's review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted;

(5)(A) Describe the facility to be used for the open-enrollment public charter school and state the facility's current use.

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

(C) If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the state board; and

(6) Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

(d)(1)(A) The application may be reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

(B) The applicant may submit to the state board for expedited review an application approved by the local school board under subdivision (d)(1)(A) of this section.

(2)(A) However, if the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the state board.

(B) The state board shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

(e) A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

**History.** Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13; 2009, No. 1469, § 20; 2011, No. 993, § 5.

**Amendments.** The 2007 amendment rewrote the section.

The 2009 amendment rewrote (c)(1)(C).

The 2011 amendment substituted “be located” for “draw students for the pur-

pose of enrollment” at the end of (c)(1)(B)(i); deleted former (c)(1)(B)(iv); deleted “and the facility’s use for the immediately preceding three (3) years” following “current use” in (c)(5)(A); added (d)(1)(B); substituted “may be” for “shall be first” in (d)(1)(A); added “or a request for review” at the end of (d)(2)(B); and substituted “licensed” for “certified” in (e).

## **6-23-304. Requirements — Preference for certain districts.**

(a) The State Board of Education may approve or deny an application based on:

- (1) Criteria provided by law or by rule adopted by the state board;
- (2) Findings of the state board relating to improving student performance and encouraging innovative programs; and
- (3) Written findings or statements received by the state board from any public school district likely to be affected by the open-enrollment public charter school.

(b) The state board shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

- (1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;
- (2) When the district has been classified by the state board as in academic distress under § 6-15-428; or
- (3) When the district has been classified by the Department of Education as in some phase of school improvement status under § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1)(A) Beginning with the 2011-2012 school year, the state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the department shall issue a commissioner’s memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant’s school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subdivision (d)(3) of this section.



(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under § 6-13-1601 et seq. until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the state board for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

(1) The approved open-enrollment public charter applicant has demonstrated success in student achievement gains, as defined by the state board;

(2) The approved open-enrollment public charter applicant has not:

(A) Been subject to any disciplinary action by the state board;

(B) Been classified as in school improvement or academic or fiscal distress; and

(C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and

(3) The state board determines in writing by majority of a quorum of the state board present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this subsection.

**History.** Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117; 2009, No. 376, § 46; 2011, No. 987, § 1; 2011, No. 993, § 6.

**Amendments.** The 2007 amendment by No. 736 rewrote (a)-(c); deleted former (d); redesignated former (e) as present (d); and inserted "public" in present (d).

The 2007 amendment by No. 827 amended this section to clarify that Acts 2005, No. 2005, § 8, renumbered the former subdivision (d)(1) as (e) [now (d)] and repealed former subdivision (d)(2).

The 2009 amendment inserted (c)(4); deleted former (d), and redesignated the remaining subdivisions accordingly; substituted "(d)(3)" for "(c)(6)" in (c)(2) and (d)(3)(C); and made minor stylistic changes.

The 2011 amendment by No. 987, in (c)(1)(A), added "Beginning with the 2011-2012 school year" at the beginning and inserted "except as provided under subdivision (c)(1)(B) of this section"; and added (c)(1)(B) and (C).

The 2011 amendment by No. 993 rewrote (d).

## 6-23-306. Contents of open-enrollment public charters.

An open-enrollment public charter granted under this subchapter shall:

(1) Describe the educational program to be offered;

(2) Specify the period for which the open-enrollment public charter or any renewal is valid;

(3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board of Education and on compliance with any accountability provision specified by the

open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;

(4) Establish the level of student performance that is considered acceptable for purposes of subdivision (3) of this section;

(5) Specify any basis, in addition to a basis specified by this chapter, on which the open-enrollment public charter school may be placed on probation or its charter is revoked or on which renewal of the open-enrollment public charter may be denied;

(6)(A) Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

(i) The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

(ii) The open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and

(iii) The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with this title;

(7) Specify the grade levels to be offered;

(8) Describe the governing structure of the program;

(9) Specify the qualifications to be met by professional employees of the program;

(10) Describe the process by which the persons providing the program will adopt an annual budget;

(11) Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;

(12) Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;

(13) Describe the geographical area, public school district, or school attendance area to be served by the program;

(14)(A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B)(i)(a) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment



public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(b)(1) If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a)(1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the equal protection clause of the Fourteenth Amendment to the United States Constitution; and

(15) Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

**History.** Acts 1999, No. 890, § 9; 2001, No. 463, § 1; 2007, No. 736, § 17; 2009, No. 1469, § 21; 2011, No. 993, § 7.

**Amendments.** The 2007 amendment inserted “open-enrollment public” throughout the section and in the section heading; rewrote the introductory paragraph; deleted “charter” preceding “renewal” in (2); inserted “public” in (13); and added (14)(B)(ii); added “as permitted by .

.. Department of Education, July, 2004” in (14)(C).

The 2009 amendment rewrote (6).

The 2011 amendment added (14)(B)(i)(b); inserted “by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year” in (14)(B)(i)(a); and rewrote (14)(C).



## RESEARCH REFERENCES

**Ark. L. Rev. Charter Schools: Racial-Balancing Provisions and Parents Involved**, 61 Ark. L. Rev. 1.

### 6-23-307. Renewal of charter.

After the initial five-year period of an open-enrollment public charter, the State Board of Education may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

**History.** Acts 1999, No. 890, § 5; 2001, No. 1311, § 4; 2005, No. 2005, § 9; 2007, No. 736, § 18; 2011, No. 993, § 8.

**Amendments.** The 2007 amendment inserted “public” following “open-enroll-

ment” and substituted “the charter” for “these charters.”

The 2011 amendment substituted “twenty (20)” for “five (5).”

## SUBCHAPTER 4 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION

### SECTION.

6-23-402. Enrollment numbers and deadline.

6-23-404. Evaluation of open-enrollment public charter schools.

### SECTION.

6-23-405. Monthly reports.

6-23-406. Department of Education review.

**Effective Dates.** Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of

funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

### 6-23-402. Enrollment numbers and deadline.

(a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

(b)(1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year

during which the student will be attending the open-enrollment public charter school.

(2) However, if a student enrolled by July 15 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Department of Education.

**History.** Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23; 2011, No. 989, § 74; 2011, No. 993, § 9.

**Amendments.** The 2007 amendment inserted “public” throughout the section; substituted “July 30” for “July 1” in (b)(1) and (2); and substituted “for the upcoming school year” for “of the school year prior to the school year” in (b)(1).

The 2011 amendment by No. 989 substituted “July 15” for “July 30” in (b)(2).

The 2011 amendment by No. 993, in (b)(2), substituted “July 15” for “July 30,” inserted “or if the open-enrollment public charter school has not yet met its enrollment cap” and substituted “a number of replacement or additional students not to exceed the enrollment cap of the open enrollment public charter school” for “a replacement student.”

## **6-23-404. Evaluation of open-enrollment public charter schools.**

(a) The Department of Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

(b) An annual evaluation shall include without limitation consideration of:

(1) Student scores under the statewide assessment program described in § 6-15-433;

(2) Student attendance;

(3) Student grades;

(4) Incidents involving student discipline;

(5) Socioeconomic data on students’ families;

(6) Parental satisfaction with the schools;

(7) Student satisfaction with the schools; and

(8) The open-enrollment public charter school’s compliance with § 6-23-107.

(c) The State Board of Education may require the charter holder to appear before the state board to discuss the results of the evaluation and to present further information to the state board as the department or the state board deems necessary.

**History.** Acts 1999, No. 890, § 12; 2001, No. 1311, § 6; 2007, No. 736, § 25; 2011, No. 993, § 10.

inserted “public” in (a); rewrote (b)(1); and added (c).

The 2011 amendment added (b)(8).

**Amendments.** The 2007 amendment

**6-23-405. Monthly reports.**

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Department of Education.

**History.** Acts 2011, No. 993, § 11.

**6-23-406. Department of Education review.**

The Department of Education shall:

(1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

(2) Report to the State Board of Education on the open-enrollment public charter school's:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

**History.** Acts 2011, No. 993, § 11.

## SUBCHAPTER 5 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING

### SECTION.

**6-23-501.** Funding for open-enrollment public charter schools.

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**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the

bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor



vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is

vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

### **6-23-501. Funding for open-enrollment public charter schools.**

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board of Education.

(2)(A) For the first year of operation and for the first year the open-enrollment public charter school adds a new grade, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

(iii) A final adjustment will be made after the current three-quarter average daily membership is established.

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(3) National school lunch state categorical funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation and in any year when a grade is added, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the state board rules governing special needs funding; and

(B) For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in state board rules governing special needs funding will be used to calculate national school lunch state categorical funding for the open-enrollment public charter school.

(4) Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation and in any year in which a grade is added as follows:

(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 1 of the current school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.

(ii) For the second year and each school year thereafter, professional development funding will be based upon the previous year's

average daily membership multiplied by the per-student professional development funding amount for that school year.

(5) The Department of Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the department the number of students eligible for funding as specified in applicable rules.

(7) Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

(b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

(c) Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

(d)(1) An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

(2) The public school district may not require lease payments that exceed the fair market value of the property.

(3) The application of this subsection is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

(4) A public school district is exempt from the provisions of this subsection if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

(5) The purposes of this subsection are to:

(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

(B) Preserve the option to continue that use.

(6) Nothing in this subsection is intended to diminish the opportunity for an Arkansas Better Chance Program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

**History.** Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26; 2009, No. 1469, § 22; 2011, No. 981, § 14; 2011, No. 989, §§ 75-77; 2011, No. 993, §§ 12-14.

**A.C.R.C. Notes.** Pursuant to Acts 2011,

No. 981, § 19, § 6-23-501(a)(4) is set out above as amended by Acts 2011, No. 993, § 14. Acts 2011, No. 981, § 19 read as follows: "The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Eighth General As-



sembly. All such acts shall have the full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.”

Pursuant to § 1-2-207, § 6-23-501(a)(2)(A)(i) is set out above as amended by Acts 2011, No. 993, § 12. Section 6-23-501(a)(2)(A)(i) was also amended by Acts 2011, No. 989, § 75, as follows: “(i) The initial funding estimate shall be based on enrollment as of July 15 of the school year in which the students are to attend classes;”.

Pursuant to § 1-2-207, § 6-23-501(a)(4)(A) is set out above as amended by Acts 2011, No. 993, § 14. Section 6-23-501(a)(4)(A) was also amended by Acts 2011, No. 989, § 76, as follows: “(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 15 of the school year in which the students are to attend, multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.”

**Amendments.** The 2007 amendment

inserted “public” throughout the section; substituted “July 30” for “July 1” in (a)(2)(A); substituted “first-quarter” for “first quarter” in (a)(2)(B); substituted “An” for “Except for state transportation aid funds, an”, added “public” preceding “charter” and substituted “any” for “other” in (b); and added (d).

The 2009 amendment rewrote (a)(2); and made a stylistic change in (a)(1).

The 2011 amendment by No. 981 deleted “for the first year of operation” following “school” in the introductory paragraph of (a)(4); and redesignated former (a)(4)(ii) as (a)(4)(B).

The 2011 amendment by No. 989 substituted “July 15 of the school year” for “July 30 preceding the school year” in (a)(2)(A)(i) and (a)(4)(A)(i); and added “Foundation” preceding “funding” in (a)(7).

The 2011 amendment by No. 993 substituted “July 1 of the current school year” for “July 30 preceding the school year in which the students are to attend classes” in (a)(2)(A)(i); inserted “and in any year when a grade is added” in (a)(3)(A); inserted “and in any year in which a grade is added” in (a)(4); and substituted “July 1 of the current school year” for “July 30 preceding the school year in which the students are to attend” in (a)(4)(A)(i).

## 6-23-503. Use of funding.

**A.C.R.C. Notes.** Acts 2011, No. 1075, § 21, provided: “OPEN-ENROLLMENT VIRTUAL CHARTER SCHOOL FUNDING RESTRICTIONS. Regardless of any provision of law to the contrary, no school district shall receive state funding for the 2011-2012 school year for those students who are included in the district’s average

daily membership for the previous school year but who are attending any open-enrollment charter school that uses internet, long-distance, or virtual technology as the primary method of teaching.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

## SUBCHAPTER 6 — LIMITED PUBLIC CHARTER SCHOOLS

### SECTION.

6-23-601. Application for limited public charter school status —

Approval — Teacher transfers — Annual evaluation.

**Effective Dates.** Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkan-

sas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding



distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the pres-

ervation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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**6-23-601. Application for limited public charter school status — Approval — Teacher transfers — Annual evaluation.**

(a)(1) Any public school may apply to the State Board of Education for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a limited public charter school.

(2) A limited public charter shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the state board.

(3) A limited public charter shall be initially established for a period of no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.

(b) The application shall:

(1)(A) Contain the provisions of this title and the specific rules and regulations promulgated by the state board from which the limited public charter school will be exempt.

(B) The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:

(i) The duty-free lunch period requirements set forth in § 6-17-111;

(ii) The daily planning period requirements set forth in § 6-17-114;

(iii) The committee on personnel policies requirements set forth in § 6-17-201 et seq.; and

(iv) Standards for accreditation set forth in the Arkansas Code, set forth by the Department of Education, or set forth by the state board.

(C) No limited public charter school may be allowed an exemption that would allow a full-time certified employee to be paid less than the salary provided in the public school district's salary schedule for that employee;

(2) Describe a plan for school improvement that addresses how the limited public charter school will improve student learning and meet the state education goals;

(3) Describe how the certified employees at the limited public charter school will be involved in developing and implementing the school

improvement plan set forth in subdivision (b)(2) of this section and in identifying performance criteria;

(4) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the limited public charter school in improving student learning and meeting or exceeding the state education goals; and

(5) Be reviewed as a regular agenda item and approved after sufficient public comment by the local school board and the state board.

(c)(1) Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the state board.

(2) If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.

(d)(1) A certified teacher employed by a public school in the school year immediately preceding the effective date of a limited public charter for a limited public charter school within that public school district may not be transferred to or be employed by the limited public charter school over the certified teacher's objections, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's certification level, then the local school board shall call for a vote of the certified teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the certified teachers approve the proposal.

(3)(A) A certified teacher choosing to join the staff of a limited public charter school shall be employed by the district by a written contract as set forth in § 6-13-620(4), with the contract being subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(B)(i) The certified teacher shall also enter into a separate supplemental contract specifically for the teacher's employment in the limited public charter school, with the supplemental contract being exempt from The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and from § 6-17-807.

(ii) Termination of the supplemental contract shall not be used as a basis to deny continued employment of the teacher within the public school district in another public school at a similar grade level.

(e)(1) Limited public charter schools shall be evaluated annually by the department based on criteria approved by the state board including without limitation:

(A) Student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school; and

- (B) The limited public charter school’s compliance with § 6-23-107.
- (2) The department shall annually report its evaluation to the state board.
- (3) Based upon that evaluation, the state board may revoke a limited public charter.
- (f) The state board shall promulgate rules and regulations necessary for the implementation of this subchapter.

**History.** Acts 2001, No. 1311, § 9; 2005, No. 2005, § 12; 2007, No. 736, § 32; 2011, No. 993, § 15.      rewrote the section and changed the section heading accordingly.  
**Amendments.** The 2007 amendment      The 2011 amendment rewrote (e)(1).

**CHAPTER 24**  
**ETHICAL GUIDELINES AND PROHIBITIONS**

SECTION.  
6-24-105. School boards.  
6-24-106. Administrators.

SECTION.  
6-24-107. Employees.  
6-24-120. [Repealed.]

**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

**6-24-105. School boards.**

- (a) **GENERAL PROHIBITION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for a board member to contract with the public educational entity the member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.
- (b) **EMPLOYMENT OF FAMILY MEMBERS.**
  - (1)(A)(i) A board member’s family member may not be initially employed by the public educational entity the member serves during the member’s tenure of service on the local board for compensation in excess of five thousand dollars (\$5,000) unless the Commissioner of



Education issues a letter of exemption and approves the employment contract based on unusual and limited circumstances.

(ii) The determination of unusual and limited circumstances shall be at the sole discretion of the commissioner and may be further defined by rule of the State Board of Education.

(B) A family member of a school board member who was employed by the public educational entity during the school year immediately preceding the election of the board member may continue employment with the public educational entity under the same terms and conditions of the previously executed contract and any renewal of the contract under § 6-17-1506.

(C) Subject to the local board's written policy, a qualified family member of a board member may be employed as a substitute teacher, substitute cafeteria worker, or substitute bus driver for a period of time not to exceed a total of thirty (30) days per fiscal year for the public educational entity served by the board member.

(2)(A)(i) No employment contract that is prohibited under subsection (b) of this section is valid or enforceable by any party to the employment contract until approved in writing by the commissioner.

(ii) The commissioner's approval of an employment contract may include restrictions and limitations that are by this subsection incorporated as terms or conditions of the contract.

(B) Excluding any renewal of a contract under § 6-17-1506, any change in the terms or conditions of an employment contract, a promotion, or a change in employment status for a family member of a school board member employed by a public educational entity that will result in an increase in compensation of more than two thousand five hundred dollars (\$2,500) must be approved in writing by the commissioner before any change in the terms or conditions of the employment contract or promotion or changes in employment status are effective, valid, or enforceable.

(c) EXCEPTIONS.

(1) BOARD APPROVAL.

(A)(i) In unusual and limited circumstances, a public educational entity's board may approve a contract, but not an employment contract, between the public educational entity and the board member or the member's family if the board determines that the contract is in the best interest of the public educational entity.

(ii) In unusual and limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.

(B) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract or employment contract in an open meeting. The resolution shall state the unusual and limited circumstances necessitating the contract or employment contract and shall document the restrictions and limitations of the contract or employment contract.

(C) If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the board member shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) INDEPENDENT APPROVAL.

(A)(i) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the commissioner for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the state board to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data for any contract, including an employment contract as provided in subsection (b) of this section, the commissioner, within twenty (20) days of receipt of the resolution and other relevant data, shall approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or contract, a series of related transactions or contracts, or employment contracts. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years, excluding employment contracts.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) RECORDS. The department and the public educational entity shall maintain a record and copy of all documentation relating to transactions or contracts with board members or members of their families.



(e) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any board member or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

**History.** Acts 2001, No. 1599, § 5; 2005, No. 1381, § 2; 2011, No. 878, § 1.

**A.C.R.C. Notes.** Acts 2005, No. 1381, § 3, provided: "The provisions of this act shall be applicable to any employment contract entered into with a public educational entity on February 21, 2005, and thereafter."

**Amendments.** The 2011 amendment

inserted "written" preceding "resolution" in (c)(2)(A)(i) and (c)(2)(A)(ii); inserted "district board of directors" following "school" in (c)(2)(A)(i); substituted "twenty (20) days" for "ten (10) days" in (c)(2)(B)(i) and (c)(2)(B)(ii); substituted "twenty-day" for "ten-day" in (c)(2)(B)(iii); and substituted "two (2) complete and consecutive fiscal years" for "two (2) years" in (c)(2)(C).

## 6-24-106. Administrators.

### (a) GENERAL PROHIBITION.

(1) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(2) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(b) FAMILY MEMBERS AS EMPLOYEES. This chapter does not prohibit an administrator's family members from being employed by the public educational entity the administrator serves or any other public educational entity. However, beginning July 1, 2002, a member of an administrator's immediate family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Education. Before issuing a written approval or denial, the commissioner shall request the Division of Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity. The Division of Legislative Audit shall report its findings in writing to the commissioner.

### (c) EXCEPTIONS.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.



(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting.

(B)(i) After reviewing the request in an open meeting, the board may, by written resolution, approve the contract subject to approval by the commissioner.

(ii) A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.

(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(4)(A) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(B) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(C) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(5) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval. The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.

(6) The Department of Education and the public educational entity shall maintain a record and copy of all documentation relating to an exemption from the provisions of this chapter.

(7) A contract subject to this subsection is not valid until the commissioner:

(A) Approves the contract; or

(B) Fails to respond to the public educational entity within the time periods specified in this section.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any administrator knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT" DEFINED. For the purposes of this section, "contract" does not apply to employment contracts issued to an administrator of a

public educational entity for administrative or other duties such as, but not limited to, teaching, bus driving, or sponsorship of clubs or activities.

(f) **COMPENSATION FOR OFFICIATING ATHLETIC EVENTS.** Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public educational entity.

(g) **COMPENSATION FOR CONDUCTING SEMINARS.** Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

**History.** Acts 2001, No. 1599, § 6; 2009, No. 376, § 47; 2011, No. 878, § 2.

**Amendments.** The 2009 amendment made minor stylistic changes in (c)(7).

The 2011 amendment inserted (c)(3)((B)(iii); substituted "twenty (20)

days" for "ten (10)" days in (c)(4)(A) and (c)(4)(B); substituted "twenty-day" for "ten-day" in (c)(4)(C); and substituted "two (2) complete and consecutive fiscal years" for "two (2) years" in (c)(5).

## 6-24-107. Employees.

(a) **GENERAL PROVISION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) **EXCEPTIONS.**

(1) **APPROVAL BY BOARD.**

(A) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(B) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting. The resolution shall state the unusual circumstances necessitating the contract and shall document the restrictions and limitations of the contract.

(C) Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) **INDEPENDENT APPROVAL.**

(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of Education for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been

received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or a series of related transactions. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(c) DOCUMENTATION. The department and the public educational entity shall maintain a record and copy of all documentation relating to transactions with employees.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT" DEFINED. For the purposes of this section, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as, but not limited to, bus driving, sponsorship of clubs or activities, or working at school sponsored events.

(f) TECHNOLOGY EMPLOYEES. All transactions involving the purchase, lease, acquisition, or other use of computers, software, copiers, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.



**History.** Acts 2001, No. 1599, § 7; 2011, No. 878, § 3.

**Amendments.** The 2011 amendment inserted "written" preceding "resolution" in (b)(2)(A)(i) and (b)(2)(A)(ii); inserted "district board of directors" following "school" in (b)(2)(A)(ii); substituted

"twenty (20) days" for "ten (10)" days in (b)(2)(B)(i) and (b)(2)(B)(ii); substituted "twenty-day" for "ten-day" in (b)(2)(B)(iii); and substituted "two (2) complete and consecutive fiscal years" for "two (2) years" in (b)(2)(C).

## 6-24-120. [Repealed.]

**Publisher's Notes.** This section, concerning penalties, was repealed by Acts 2009, No. 1469, § 24. The section was

derived from Acts 2003, No. 1738, § 6; 2007, No. 617, § 31.

## CHAPTER 26

# ARKANSAS TEACHER HOUSING DEVELOPMENT ACT

### SUBCHAPTER.

### 3. TEACHER HOUSING DEVELOPMENT REQUIREMENTS.

## SUBCHAPTER 3 — TEACHER HOUSING DEVELOPMENT REQUIREMENTS

### SECTION.

6-26-304. Development of the pilot rental housing program.

## 6-26-304. Development of the pilot rental housing program.

(a) The Arkansas Teacher Housing Development Foundation or its designee shall receive proposals from developers for the construction of the rental housing units.

(b)(1) The Director of the Arkansas Teacher Housing Development Foundation shall recommend to the Board of Trustees of the Arkansas Teacher Housing Development Foundation which developer shall construct the rental housing units in each congressional district.

(2) The board shall either approve or reject the director's recommendations for the developer of the rental housing units.

(3) If the board rejects any of the director's recommendations, then the director shall recommend another developer that submitted a proposal.

(4) This process shall continue until a developer is approved by the board for each of the four (4) congressional districts.

(c) A preference shall be given to proposals submitted by developers located in the congressional district of the high-priority school district, but this preference shall not be the single determining factor.

(d) The foundation or its designee shall provide low-interest loans to the selected developers in the amount necessary to construct rental housing units to meet the housing needs for the expected number of high-performing teachers attracted to the area who will choose rental housing units.

(e)(1) Upon completion of the construction of the rental housing units, the developer shall operate the rental housing units until the loan is repaid.

(2) The developer and the foundation shall agree on the amount necessary to compensate the developer for the fair rental value of the rental housing units, considering the amount of rent the teacher is paying.

**History.** Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2009, No. 376, § 48.

**Amendments.** The 2009 amendment,

in (d), substituted “high-performing” for “high-priority” and made a minor stylistic change.

## CHAPTER 27

### EDUCATIONAL ACCESS FOR MILITARY CHILDREN

#### SECTION.

6-27-101. Findings.

6-27-102. Definitions.

6-27-103. Applicability.

6-27-104. Receiving school — Education records.

6-27-105. Receiving school — Required immunizations.

6-27-106. Receiving school — Course or program placement.

6-27-107. Receiving school — Grade placement.

#### SECTION.

6-27-108. Receiving school — Special education services.

6-27-109. Receiving school — Student transfer in grade twelve.

6-27-110. Sending school — Education records.

6-27-111. Sending school — Student transfer in grade twelve.

6-27-112. Authorization for enrollment.

6-27-113. Absence due to military deployment.

#### 6-27-101. Findings.

The General Assembly finds that:

(1) Access to education is challenging for a child of a military family due to frequent moves and deployment of his or her parents;

(2) A child of a military family encounters difficulties due to the transfer of education records and variations in entrance and age requirements;

(3) The student placement process should aid a child of a military family in attendance requirements, scheduling, sequencing, grading, course content, and assessment;

(4) Qualification and eligibility guidelines should be consistent so that a child of a military family may continue his or her educational experience;

(5) On-time graduation of a child of a military family is necessary and possible;

(6) The uniform collection and sharing of information between states, schools, and military families will enable a smooth transition and successful matriculation for the student; and

(7) Flexibility and cooperation between the educational system, the parent, and the student are essential to the academic success of a child of a military family.

**History.** Acts 2009, No. 314, § 1.

## **6-27-102. Definitions.**

As used in this chapter:

(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301 et seq. and 10 U.S.C. § 12401 et seq. as they existed on January 29, 2009;

(2) "Child of a military family" means a school-aged child in the household of a person on active duty who is enrolled in kindergarten through grade twelve (K-12);

(3) "Deployment" means the period one (1) month before departure of the person on active duty from his or her home station on military orders through six (6) months after return to his or her home station;

(4) "Education records" means the official records, files, and data maintained by the local education agency and kept in the student's cumulative folder, including general identifying data, records of attendance and academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;

(5) "Extracurricular activities" means voluntary activities sponsored by the school, local education agency, or an organization sanctioned by the local education agency, including preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;

(6) "Local education agency" means a public authority legally recognized by the state as an administrative agency to provide control and direction for kindergarten through grade twelve (K-12) public education;

(7) "Receiving school" means the school in a state to which a child of a military family is sent, brought, or caused to be sent or brought;

(8) "Sending school" means the school in a state from which a child of a military family is sent, brought, or caused to be sent or brought;

(9) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of Northern Marianas Islands, and any other United States territory;

(10) "Student" means the child of a military family enrolled in kindergarten through grade twelve (K-12);

(11) "Transition" means:

(A) The formal and physical process of transferring from the sending school to the receiving school; or

(B) The period of time in which a student moves from the sending school in a state to a receiving school in a state;

(12) "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard; and

(13) "Veteran" means a person who served in the uniformed services and who was discharged or released under conditions other than dishonorable.



**History.** Acts 2009, No. 314, § 1.

### **6-27-103. Applicability.**

(a)(1) This chapter shall apply to a child of:

(A) An active duty member of the uniformed services, including a member of the National Guard and Reserve;

(B) A member of the uniformed services who is severely injured and medically discharged;

(C) A member of the uniformed services who is severely injured and retired; and

(D) A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty.

(2) This chapter shall apply to a child under subdivisions (a)(1)(B)-(D) of this section for a period of one (1) year after the medical discharge, retirement, or death of the member of the uniformed services.

(b) This chapter shall not apply to a child of:

(1) An inactive member of the National Guard and Reserve;

(2) A retired member of the uniformed services, except as provided in subsection (a) of this section;

(3) A veteran of the uniformed services, except as provided in subsection (a) of this section; and

(4) Any other United States Department of Defense personnel or any other federal agency civilian and contract employee not defined as an active duty member of the uniformed services.

(c) This chapter shall apply only to local education agencies as defined in this chapter.

**History.** Acts 2009, No. 314, § 1.

### **6-27-104. Receiving school — Education records.**

(a) To satisfy records requirements upon a student's enrollment at a receiving school, a receiving school shall accept a student's:

(1) Official education record; or

(2) Unofficial education record, if the official education record is unavailable at the time of enrollment.

(b) Upon receipt of the unofficial education record by a receiving school, the receiving school shall enroll and appropriately place the student based on the information provided in the unofficial record pending validation by the official education records.

(c) Simultaneous with the enrollment and conditional placement of the student submitting an unofficial education record, the receiving school shall request and work to obtain the student's official education record from the sending school.

**History.** Acts 2009, No. 314, § 1.

**6-27-105. Receiving school — Required immunizations.**

The receiving school shall allow thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Department of Education for the student to:

- (1) Obtain required immunizations; or
- (2)(A) Receive an initial required immunization in a series of required immunizations.

(B) However, the student shall obtain the entirety of his or her required immunizations within twelve (12) months from the date of enrollment.

**History.** Acts 2009, No. 314, § 1.

**6-27-106. Receiving school — Course or program placement.**

(a) A receiving school shall initially place the student in the equivalent grade, course, or program, including special education, until appropriate evaluations are performed by the receiving school to ensure appropriate placement based on education assessments conducted at the sending school including:

- (1) Gifted and talented;
- (2) English as a second language;
- (3) Honors;
- (4) International baccalaureate;
- (5) Advanced placement; and
- (6) Vocational, technical, and career pathways courses.

(b) A home-schooled student shall be placed according to the process outlined in § 6-15-501 et seq. for placement of a home-schooled student in a public school.

(c) The local education agency may waive course and program prerequisites or other preconditions for placement in courses or programs offered in the jurisdiction of the local education agency.

**History.** Acts 2009, No. 314, § 1.

**6-27-107. Receiving school — Grade placement.**

A receiving school shall allow a student, regardless of age, to:

(1) Continue enrollment at the grade level in the receiving school commensurate with the grade level, including kindergarten, in the sending school at the time of transition; or

(2) Enroll in the next highest grade if the student satisfactorily completed the prerequisite grade level at the sending school.

**History.** Acts 2009, No. 314, § 1.

**6-27-108. Receiving school — Special education services.**

(a) A receiving school shall initially provide comparable services to a student with disabilities based on his or her current individualized education plan as required by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., as it existed on February 1, 2009.

(b) A receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education as required by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, as they existed on February 1, 2009.

**History.** Acts 2009, No. 314, § 1.

**6-27-109. Receiving school — Student transfer in grade twelve.**

To facilitate the on-time graduation of a child of a military family transferring in grade twelve (12), a receiving school shall:

(1)(A) Waive specific courses required for graduation if similar course work has been satisfactorily completed at a sending school or shall provide reasonable justification for denial.

(B) If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of completing required coursework so that graduation may occur on time;

(2) Accept exit exams, end-of-course exams, or alternative testing required for graduation from the sending school in lieu of testing requirements for graduation in the receiving school; and

(3)(A) Work with the sending school if the student transferring at the beginning or during grade twelve (12) is ineligible to graduate from the receiving school after all alternatives have been considered to ensure the receipt of a diploma from the sending school if the student meets the graduation requirements of the sending school.

(B) If the sending school fails to issue a diploma, the receiving school shall use best efforts to facilitate the on-time graduation of the student in accordance with subdivisions (1) and (2) of this section.

**History.** Acts 2009, No. 314, § 1.

**6-27-110. Sending school — Education records.**

(a) The sending school shall prepare and furnish to the parent of a student leaving the school:

(1) Official education records; or

(2) Unofficial education records, if official records cannot be released to the parent for the purpose of transfer.



(b) The sending school shall process and furnish the official education records to the receiving school within ten (10) days of receiving a request from the receiving school.

**History.** Acts 2009, No. 314, § 1.

### **6-27-111. Sending school — Student transfer in grade twelve.**

A sending school shall work with the receiving school to facilitate the on-time graduation of the student transferring at the beginning or during grade twelve (12) if the student is ineligible to graduate from the receiving school and ensure the receipt of a diploma from the sending school if the student meets the graduation requirements of the sending school.

**History.** Acts 2009, No. 314, § 1.

### **6-27-112. Authorization for enrollment.**

(a) A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for enrollment and for all other actions requiring parental participation and consent if the parent is not available.

(b)(1) A student placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

(2) The cost of transporting the student to and from school shall be the responsibility of the student if the student resides outside the school district in which he or she attends school.

(c) State and local education agencies shall facilitate the opportunity for student inclusion in extracurricular activities, regardless of application deadlines, to the extent the student is otherwise qualified.

**History.** Acts 2009, No. 314, § 1; 2011, No. 981, § 15.

**Amendments.** The 2011 amendment added “school” at the end of (b)(2).

### **6-27-113. Absence due to military deployment.**

A student shall be granted additional absences at the discretion of the local educational agency superintendent to visit with his or her parent or legal guardian if the parent or legal guardian is a member of the uniformed services and has:

- (1) Been called to active duty or is on leave from active duty; or
- (2) Returned from deployment to a combat zone or combat support posting.

**History.** Acts 2009, No. 314, § 1; 2011, No. 1223, § 5.

**Amendments.** The 2011 amendment

substituted “granted additional absences” for “granted excused absences” in the introductory language.

**SUBTITLE 3. SPECIAL EDUCATIONAL PROGRAMS****CHAPTER 41****CHILDREN WITH DISABILITIES****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. CHILDREN WITH DISABILITIES ACT.
4. IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS.

**SUBCHAPTER 1 — GENERAL PROVISIONS****SECTION.**

6-41-104. Services for children determined in another state to

be eligible for services due to a behavioral disability.

**6-41-104. Services for children determined in another state to be eligible for services due to a behavioral disability.**

(a) This section applies to a child who:

(1) Enrolls for the first time in special education services at an Arkansas public school; and

(2) Has been previously determined by a school district in another state to be eligible for special education services due to a behavioral disability.

(b) The Arkansas public school district shall conduct an evaluation of the child consistent with federal and state rules to determine the appropriate special education disability category recognized in this state, if any.

(c)(1) If a child with a disability who had an individualized education program that was in effect in a previous public agency in another state transfers to a public agency in this state and enrolls in a new school within the same school year, the new public agency in consultation with the parents must provide the child with free appropriate public education including services comparable to those described in the child's individualized education program from the previous public agency until such time as the new public agency:

(A) Conducts an evaluation pursuant to 34 C.F.R. § 300.304 through 34 C.F.R. § 300.306, if determined to be necessary by the new public agency; and

(B) Develops, adopts, and implements a new individualized education program, if appropriate, that meets the applicable requirements in 34 C.F.R. § 300.320 through 34 C.F.R. § 300.324.

(2) If the child's behavior results in an out-of-school suspension of ten (10) or more consecutive or nonconsecutive days or an expulsion during the period of time the child receives special education services under the disability category of behavioral disability, the child's individualized education program team shall meet to review the child's individu-

alized education program, including the behavioral needs of the child and the current placement of the child, consistent with federal and state rules dealing with special education and related services.

(d) The Department of Education shall have the authority to promulgate rules as necessary to carry out the provisions of this section.

**History.** Acts 2009, No. 377, § 1.

## **SUBCHAPTER 2 — CHILDREN WITH DISABILITIES ACT**

### **SECTION.**

6-41-211. Advisory Council for the Education of Children with Disabilities.

### **SECTION.**

6-41-217. Individualized education program.

### **6-41-211. Advisory Council for the Education of Children with Disabilities.**

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of Education and the Associate Director of the Special Education Section of the Department of Education and which shall engage in such other activities as are set forth in this section.

(2) The advisory council shall be advisory only and shall have no administrative responsibility or authority.

(b)(1) The advisory council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of persons from birth to twenty-six (26) years of age with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) Not fewer than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities;

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.



(2) A majority of the members of the panel shall be individuals with disabilities or parents of persons from birth to twenty-six (26) years of age with disabilities.

(c)(1) The commissioner shall appoint the members of the advisory council for three-year terms.

(2) Appointees may be eligible for reappointment for one (1) term.

(d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e) The advisory council shall elect annually its own chair and vice chair.

(f) The associate director shall meet with and act as secretary to the advisory council and, subject to the availability of personnel, facilities, and appropriations, shall furnish meeting facilities and staff services for the advisory council.

(g) The advisory council shall:

(1) Advise the Department of Education of unmet needs within the state in the education of children with disabilities;

(2) Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;

(3) Advise the department in developing evaluations and reporting on data to the Secretary of Education under 20 U.S.C. § 1418;

(4) Advise the department in developing corrective action plans to address findings identified in federal monitoring reports under Title 20, Chapter 33, Subchapter II of the United States Code; and

(5) Advise the department in developing and implementing policies relating to the coordination of services for children with disabilities.

**History.** Acts 1973, No. 102, § 15; 1975, No. 641, § 6; A.S.A. 1947, § 80-2129; Acts 1993, No. 294, § 14; 1995, No. 1296, § 30; 1999, No. 391, §§ 27, 28; 2005, No. 2151, § 28; 2009, No. 376, § 49.

**Amendments.** The 2009 amendment substituted "Title 20, Chapter 33, Subchapter II of the United States Code" for "this part" in (g)(4).

## **6-41-217. Individualized education program.**

(a) Before any action is taken with respect to the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child's educational needs must be conducted.

(b)(1) Prior to placement in special education services, each child must have an individualized education program.

(2) The term "individualized education program" or "IEP" means a written statement for each child with disabilities that is developed, reviewed, and revised in accordance with the requirements of the Individuals with Disabilities Education Act.

(3) The individualized education program shall include:

(A) A statement of the child's present levels of academic achievement and functional performance, including:

(i) How the child's disability affects the child's involvement and progress in the general education curriculum;

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

(iii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(B) A statement of measurable annual goals, including academic and functional goals, designed to:

(i) Meet the child's needs that result from the child's disability in order to enable the child to be involved in and to make progress in the general education curriculum; and

(ii) Meet each of the child's other educational needs that result from the child's disability;

(C) A description of how the child's progress toward meeting the annual goals described in subdivision (b)(3)(B) of this section will be measured and when periodic reports will be provided on the progress the child is making toward meeting the annual goals, including, but not limited to, the use of quarterly or other periodic reports, concurrent with the issuance of report cards;

(D) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and to make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and to participate with other children with disabilities and nondisabled children in the activities described in this section;

(E) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in this section;

(F)(i) A statement of any individual-appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and districtwide assessments consistent with the Individuals with Disabilities Education Act, regarding participation in assessments of students with disabilities in all general statewide and districtwide assessment programs.

(ii) If the individualized education program team determines that the child shall take an alternative assessment on a particular statewide or districtwide assessment of student achievement, a statement of why:

(a) The child cannot participate in the regular assessment; and

(b) The particular alternate assessment selected is appropriate for the child;

(G) The projected date for the beginning of the services and modifications described in this section, and the anticipated frequency, location, and duration of those services and modifications; and

(H)(i)(a) Beginning not later than the first individualized education plan to be in effect when the child is sixteen (16) years of age and updated annually thereafter, appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and when appropriate, independent living skills.

(b) The individualized education program shall also include the transition services, including courses of study, needed to assist the child in reaching those goals.

(ii) Beginning no later than one (1) year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under the Individuals with Disabilities Education Act.

(c) Nothing in this section shall be construed to require the individualized education program team to include information under one (1) component of a child's individualized education program that is already contained under another component of such individualized education program.

**History.** Acts 1973, No. 102, § 19; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1993, No. 294, § 14; 1999, No. 391, § 31; 2005, No. 2151, § 30; 2009, No. 376, § 50.

**Amendments.** The 2009 amendment inserted "individualized education program shall also include the" in (b)(3)(H)(i)(b).

#### SUBCHAPTER 4 — IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS

##### SECTION.

6-41-403. Assessment of student progress.

6-41-407. Accommodation for students

with sensory processing difficulty.

#### 6-41-403. Assessment of student progress.

(a) Each school district shall ensure that, at least one (1) time per year, a certified teacher of the visually impaired, or other qualified person as determined by the Department of Education, conducts an assessment of the educational progress of each visually impaired student enrolled in that school district identified as having or suspected of having a disability pursuant to the Children with Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:

(1) Address the student's need for braille instruction, using procedures developed by the department, and specify the learning medium most appropriate for the student's educational progress;



(2) Identify the student's strengths and weaknesses in braille skills, when that medium is used for instruction; and

(3) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.

(b) The results of the assessment shall be used to develop the student's individualized education program.

**History.** Acts 1993, No. 483, § 3; 2009, substituted "individualized education program" for "individual education plan" in No. 376, § 51.

**Amendments.** The 2009 amendment (b).

### **6-41-407. Accommodation for students with sensory processing difficulty.**

When administering a state-mandated assessment or a state-mandated test, the Department of Education and each school district shall allow a student that has been evaluated through appropriate testing, including a comprehensive eye examination by an optometrist or an ophthalmologist, and identified as having difficulty with sensory processing in reaction to oversensitivity to full spectrum light to use color overlays specific to the student's oversensitivity that alter the contrast between the words and the page so that the student can visually comprehend the words on a page of a state mandated assessment or a state-mandated test.

**History.** Acts 2009, No. 1460, § 1.

## **CHAPTER 42**

### **GIFTED AND TALENTED CHILDREN**

#### **SUBCHAPTER 3 — ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS**

**A.C.R.C. Notes.** Acts 2011, No. 1084, § 26, provided: "SCHOOL FOR MATHEMATICS, SCIENCES AND THE ARTS TEACHER GRANT RELATED FUNDING PROVISION. Teachers of the School for Mathematics, Sciences, and the Arts who, in addition to fulfilling annual teaching contract requirements also write grants, grant progress reports and write and publish papers may be authorized as additional annual compensation an

amount up to 1/10 of their annual salary. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employees. The additional compensation authorized by this section shall not be paid from state general revenues or Educational Excellence Trust Fund monies.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

## CHAPTER 43

# ARKANSAS SCHOOL FOR THE BLIND AND ARKANSAS SCHOOL FOR THE DEAF

### SUBCHAPTER

2. ARKANSAS SCHOOL FOR THE BLIND.
3. ARKANSAS SCHOOL FOR THE DEAF.

## SUBCHAPTER 1 — GENERAL PROVISIONS

### 6-43-102. Powers and duties of board.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 13, provided: “**SHARED SERVICES.** The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

“Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

Acts 2011, No. 533, § 10, provided: “**SHARED SERVICES.** The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

“Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

### 6-43-113. Compensation limitation.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 8, provided: “**ADDITIONAL SALARY/COMPENSATION PROVISION.** No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of

higher education, except from the Superintendent’s written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee’s primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for which-

ever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 533, § 9, provided: "ADDITIONAL SALARY/COMPENSATION PROVISION. No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except

from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

### **6-43-115. Additional compensation for employees.**

Acts 2011, No. 532, § 8, provided: "ADDITIONAL SALARY/COMPENSATION PROVISION. No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both posi-

tions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

### **6-43-116. Special allowance.**

**A.C.R.C. Notes.** Acts 2011, No. 532, § 7, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"2) Coaching one or more sports

"3) Sponsoring a club or organization that involves additional hours outside of the normal working day



**"4) Interpretive Services**

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employee.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 533, § 8, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"2) Coaching one or more sports

"3) Sponsoring a club or organization that involves additional hours outside of the normal working day

"4) Interpretive Services

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such pay shall not be construed as exceeding the maximum salary authorized for said position.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

## SUBCHAPTER 2 — ARKANSAS SCHOOL FOR THE BLIND

### SECTION.

6-43-223. Reports — Publication.

### 6-43-213. Salaries.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 14, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 533, § 14, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

### 6-43-223. Reports — Publication.

(a) The Board of Trustees and the Superintendent of the Arkansas School for the Blind shall make a full and complete report, to be submitted to the Governor and the General Assembly, not later than January 15 of each year the General Assembly is in regular session.

(b) These reports shall deal with improvements made during the previous two (2) fiscal years, together with the suggestions and recommendations covering the institution for the next two-year period.

(c) The report of the board of trustees shall cover the preceding school year.

(d)(1) The board of trustees and the superintendent shall each make detailed reports biennially to the General Assembly of their proceedings, the condition of the school, the number of pupils, and other facts connected with the institution, including the exact receipts and expenditures of the board of trustees.

(2) The superintendent shall report to the board of trustees prior to each regular session of the General Assembly a detailed statement of the number of pupils admitted and discharged, their place of residence and supposed cause of blindness, the amount of money expended and for what purpose, and the probable sum necessary to defray the current expenses of the institution until the next regular session of the General Assembly, which report shall be embodied in that of the board of trustees.

(e)(1) The reports shall be made and printed together not later than January 15 of each year the General Assembly is in regular session.

(2) There shall be, of each biennial report of the board of trustees to the General Assembly, one thousand five hundred (1,500) copies printed, one thousand (1,000) for the use of the General Assembly and five hundred (500) for the school.

**History.** Acts 1868, No. 50, §§ 11, 20, 27, p. 154; 1911, No. 434, § 7; C. & M. Dig., §§ 9464, 9467, 9475, 9478; Pope's Dig., §§ 12867, 12870, 12878, 12881; A.S.A. 1947, §§ 80-2203, 80-2204, 80-2214, 80-2217; Acts 2009, No. 962, § 4.

**Amendments.** The 2009 amendment

inserted "regular" preceding "session" in (a)(1), (a)(4)(B), and (a)(5)(A); in (a)(2), substituted "the previous two (2) fiscal years" for "biennial period covered by them" and "two-year period" for "legislative period"; and substituted "next regular session" for "ensuing session" in (a)(4)(B).

### SUBCHAPTER 3 — ARKANSAS SCHOOL FOR THE DEAF

#### SECTION.

6-43-311. Biennial reports.

#### 6-43-305. Teachers generally.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 14, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 533, § 14, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

#### 6-43-311. Biennial reports.

(a) The Board of Trustees and the Superintendent of the Arkansas School for the Deaf shall make a full and complete report to be submitted to the Governor, which shall be printed together and presented to the General Assembly not later than January 16 of each year the General Assembly is in regular session.

(b) The report of the board of trustees shall cover the two (2) preceding calendar years, and the report of the superintendent shall cover the two (2) preceding school years.

(c) These reports shall deal with the improvements made during the biennial period covered by them, together with the suggestions and recommendations concerning the school for the next biennium.

**History.** Acts 1911, No. 442, § 6; C. & M. Dig., § 9368; Pope's Dig., § 12833; A.S.A. 1947, § 80-2311; Acts 2009, No. 962, § 5.

**Amendments.** The 2009 amendment inserted "regular" preceding "session" in (a).

### 6-43-320. Shift differential.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 9, provided: "SHIFT DIFFERENTIAL. For Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the

following day.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

### 6-43-321. Maintenance, transportation, and security for the Arkansas School for the Blind.

**A.C.R.C. Notes.** Acts 2011, No. 532, § 12, provided: "MAINTENANCE/TRANSPORTATION/SECURITY. The Arkansas School for the Deaf shall be responsible for providing maintenance, transportation, and security for the Arkansas School for the Blind. The Arkansas

School for the Deaf is authorized to spend general revenue funds to provide for these services.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

## CHAPTER 45

### ARKANSAS BETTER CHANCE PROGRAM

#### SECTION.

6-45-103. Definitions.

6-45-105. Establishment of the Arkansas Better Chance Program.

#### SECTION.

6-45-111. Early childhood program assessments.

**A.C.R.C. Notes.** Acts 2011, No. 1075, § 22, provided: "BETTER CHANCE PROGRAM ADMINISTRATIVE FEES. The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written

request to include the following: a) the Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

"Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each



fund and fund account by amendment to the Revenue Stabilization law. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a

severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

### 6-45-103. Definitions.

As used in this chapter:

(1) "Appropriate early childhood program" means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Department of Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Core Quality Approval Standards of the Department of Education to be issued by the Department of Education pursuant to this chapter;

(2) "Arkansas Better Chance for School Success" means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) "Arkansas Early Childhood Commission" or "commission" means a twenty-four member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the Department of Education on early childhood program issues;

(4) "Arkansas HIPPIY Advisory Board" means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPIY) Regional Technical Assistance and Training Center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters, and to provide consultation and guidance to the center; and

(5) "Department" means the Department of Education or its authorized agents.

**History.** Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 1332, § 2; 2009, No. 28, § 1.

**Amendments.** The 2009 amendment substituted "a twenty-four (24) member" for "an eighteen-member" in (3).

### 6-45-105. Establishment of the Arkansas Better Chance Program.

(a)(1)(A) The Department of Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of

the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) Beginning with the 1991-1992 school year, the department shall award grants or contracts to appropriate early childhood programs selected by the department in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the department, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction Program for Preschool Youngsters will be developed in conjunction with the Arkansas HIPPPY Advisory Board.

(C) The Home Instruction Program for Preschool Youngsters Regional Technical Assistance and Training Center shall be defined and funded as an integral part of the Home Instruction Program for Preschool Youngsters to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules and regulations necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The department may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The department may contract with the Division of Child Care and Early Childhood Education to administer the Arkansas Better Chance Program.

**History.** Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4; 2009, No. 376, § 52.

**Amendments.** The 2009 amendment, in (c), substituted "Arkansas Better Chance Program" for "program" in three places, and made a minor stylistic change.

### **6-45-111. Early childhood program assessments.**

(a) The Division of Child Care and Early Childhood Education shall assess each early childhood program in this state that receives state funding under this subchapter based on nationally recognized standards and assessments that may include without limitation the following components:

- (1) Curriculum and learning environment;
- (2) Training and education of staff;

- (3) Adult-to-child ratios;
- (4) Student assessments;
- (5) Health and safety conditions;
- (6) Family involvement; and
- (7) Site visits.

(b) The certification under § 6-45-109 of a child care facility that has an early childhood program is subject to the review of the assessment by the division.

(c) The division annually shall provide a summary of the results of assessments conducted under this section concerning the quality of the early childhood programs assessed to the Governor, the interim Senate Committee on Education, and the interim House Committee on Education.

**History.** Acts 2011, No. 1130, § 1.

## CHAPTER 46

### ARKANSAS HIGH TECHNOLOGY TRAINING CENTER

#### SUBCHAPTER.

#### 3. ADMINISTRATION.

#### SUBCHAPTER 3 — ADMINISTRATION

#### SECTION.

#### 6-46-303. Budget.

#### 6-46-303. Budget.

(a) The Department of Career Education shall prepare the biennial budget request for the Arkansas High Technology Training Center's operation, which shall be submitted to the State Board of Career Education for inclusion in the biennial budget request of the department for funding programs from the Department of Workforce Education Fund Account.

(b) The department is authorized and empowered to receive contributions, donations, gifts, bequests of money, other forms of financial assistance, and property, equipment, materials, or personnel, from persons, foundations, trust funds, corporations, organizations, and other sources, private or public, to be expended and utilized for the operation of the center.

**History.** Acts 1993, No. 839, §§ 4, 7; 2009, No. 376, § 53.

**Amendments.** The 2009 amendment, in (a), substituted "Department of Work-

force Education Fund Account" for "Vocational Education Fund," and made minor punctuation and stylistic changes.



## CHAPTER 47

### DISTANCE LEARNING

#### SUBCHAPTER.

2. DISTANCE LEARNING COORDINATION.
3. DISTANCE LEARNING IMPLEMENTATION.
4. ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT.

#### SUBCHAPTER 2 — DISTANCE LEARNING COORDINATION

#### SECTION.

6-47-201. Administration in elementary schools.

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**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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#### 6-47-201. Administration in elementary schools.

(a) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.

(b) The department shall promulgate rules and regulations establishing appropriate adult supervision.

(c)(1) The elementary or secondary school may import courses from outside the state if the out-of-state course provider is approved by the department before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow department course frameworks.

(d) The courses offered through distance learning shall include, but not be limited to:

(1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and

(2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

(e) The department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, and other state agencies involved in distance learning in implementing distance learning.

**History.** Acts 1999, No. 1083, § 1; 2009, No. 1469, § 25.

**Amendments.** The 2009 amendment rewrote (c).

SUBCHAPTER 3 — DISTANCE LEARNING IMPLEMENTATION

SECTION.  
6-47-302. Implementation in elementary

and secondary schools —  
Courses offered.

**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-47-302. Implementation in elementary and secondary schools — Courses offered.

(a) The Department of Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b)(1) The elementary or secondary school may utilize courses from outside the state if the out-of-state course provider is approved by the Department of Education or the Department of Career Education before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow Department of Education course frameworks.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Department of Education shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educa-

tional Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

**History.** Acts 1999, No. 1298, § 2; 2009, No. 1469, § 26.

**Amendments.** The 2009 amendment rewrote (b).

## **SUBCHAPTER 4 — ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT**

### **SECTION.**

6-47-406. Public school district and char-

ter school distance learning program.

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**Effective Dates.** Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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### **6-47-406. Public school district and charter school distance learning program.**

(a) Except as provided in subsection (b) of this section, a public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

(1) The student resides in the public school district where the public school or open-enrollment public charter school is located;

(2) The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking:

(A) A distance learning course taught through the public school or open-enrollment public charter school; and

(B) State tests and assessments required for the particular course or courses taken by the student; and

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by or otherwise complies with Department of Education rules and standards governing distance learning courses.

(b) The State Board of Education shall adopt rules to allow the Commissioner of Education to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student



who is unable to attend due to conditions that prevent the child from physically attending a public school or an open-enrollment public charter school.

(c)(1) A public school district or open-enrollment public charter school that teaches or offers a distance learning course to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) or subsection (b) of this section shall be entitled to an amount equal to one-sixth ( $1/6$ ) of the state foundation funding amount for each course taught to a private school student or home-schooled student.

(2) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home-schooled or private school student.

(d) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

(e) This section shall not be construed to entitle a home school student or private school student to participate in, enroll in, or attend any other courses, activities, or services provided by a public school district or an open-enrollment public charter school.

(f)(1) Before a public school district or public charter school offers or teaches to public school students, home-schooled students, or private school students distance learning courses that are not part of the curriculum required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the state board, the public school district or public charter school first shall obtain approval of the distance learning courses by the department.

(2) A course offered under this subsection shall follow department course frameworks.

(g) No public school district or open-enrollment public charter school shall establish or provide a virtual school or distance learning course except as allowed by this section.

(h) This section shall not be construed to require a home school student or private school student to take any test or assessment not specifically required for completion of the course for which the student is enrolled.

**History.** Acts 2005, No. 2325, § 2; 2009, No. 1469, § 27.

**Amendments.** The 2009 amendment rewrote (a)(2) and (f); substituted “or oth-

erwise” for “and otherwise” in (a)(3); inserted “course taught to a” in (c)(1); and added (h).

CHAPTER 48  
ALTERNATIVE LEARNING ENVIRONMENTS

SECTION.

6-48-101. Definitions.

6-48-102. Alternative learning environment required — Reporting.

SECTION.

6-48-103. Assessment and intervention services.

6-48-104. Department of Education responsibilities.

**Effective Dates.** Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state’s public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state’s public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public

schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

6-48-101. Definitions.

As used in this chapter:

(1)(A)(i) “Alternative learning environment” means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student’s personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student’s personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) “Intervention services” means activities within or outside a school that will eliminate traditional barriers to learning.

**History.** Acts 2011, No. 1118, § 4.

6-48-102. Alternative learning environment required — Reporting.

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

**History.** Acts 2011, No. 1118, § 4.

#### **6-48-103. Assessment and intervention services.**

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b)(1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

**History.** Acts 2011, No. 1118, § 4.

#### **6-48-104. Department of Education responsibilities.**

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the



student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b)(1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

**History.** Acts 2011, No. 1118, § 4.











